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SYMPOSIUM ON CONSCRIPTION:

WHY NOT A VOLUNTEER ARMY?
MILTON FRIEDMAN

CONSCRIPTION IN A DEMOCRATIC SOCIETY
RICHARD FLACKS

THE REAL COSTS OF A VOLUNTEER MILITARY
WALTER Y. OI

EMIGRATION AS AN ALTERNATIVE TO THE DRAFT
JOE MICHAEL COBB

A JOURNAL OF CLASSICAL LIBERAL THOUGHT

Spring 1967 | $1.00 | Vol. 4, No. 4

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NEW INDIVIDUALIST REVIEW is published quarterly by *New Individualist Review, Inc.*, at Ida Noyes Hall, University of Chicago, Chicago, Illinois 60637. Telephone 312/363-8778.

Opinions expressed in signed articles do not necessarily represent the views of the editors. Editorial, advertising, and subscription correspondence and manuscripts should be sent to NEW INDIVIDUALIST REVIEW, Ida Noyes Hall, University of Chicago, Chicago, Illinois 60637. All manuscripts become the property of NEW INDIVIDUALIST REVIEW.

Subscription rates: $3.00 per year. Two years at $5.75.

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Why Not a Volunteer Army?

MILTON FRIEDMAN

OUR MILITARY FORCES currently require the services of only a minority of young men. At most, something like one-third will have seen military service by the time they reach twenty-six. This percentage is scheduled to decline still further as the youngsters born in the postwar baby boom come of age. Some method of "selective service" is inevitable. The present method is inequitable, wasteful, and inconsistent with a free society.

On this point there is wide agreement. Even most supporters of a draft like the present one regard it as at best a necessary evil; and representatives of all parts of the political spectrum have urged that conscription be abolished — including John Kenneth Galbraith and Barry Goldwater; the New Left and the Republican Ripon Society.

The disadvantages of our present system of compulsion and the advantages of a volunteer army are so widely recognized that we can deal with them very briefly. The more puzzling question is why we have continued to use compulsion. The answer is partly inertia — a carryover from a total war situation, when the case for a volunteer army is far weaker. But even more, the answer is the tyranny of the status quo. The natural tendency of an administrator of a large, complex, and ongoing activity is to regard the present method of administering it as the only feasible way to do so and to object strenuously that any proposed alternative is visionary and unfeasible — even though the same man, once the change is made and it becomes the existing method, will argue just as strenuously that *it* is the only feasible method.

This bureaucratic stand-pattism has been reinforced by a confusion between the apparent and the real cost of manning the armed forces by compulsion. The confusion has made it appear that a volunteer army would be much more expensive to the country and hence might not be feasible for fiscal reasons. In fact, the cost of a volunteer army, properly calculated, would almost surely be less than of a conscripted army. It is entirely feasible to maintain present levels of military power on a strictly volunteer basis.

The other disadvantages that have been attributed to a volunteer army are that it might be racially unbalanced, would not provide sufficient flexibility in size of forces, and would enhance the political danger of undue military influence. While the problems referred to are real, the first and third are in no way connected with the use of voluntary or compulsory means to recruit enlisted men and do not constitute valid arguments against abolishing the draft. The second has more merit but devices exist

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to provide moderate flexibility under a voluntary as under a compulsory system.

There is no reason why we cannot move to volunteer forces gradually — by making conditions of service more and more attractive until the whip of compulsion fades away. This, in my opinion, is the direction in which we should move, and the sooner the better.

A volunteer army would be manned by people who had chosen a military career rather than, at least partly, by reluctant conscripts anxious only to serve out their term. Aside from the effect on fighting spirit, this would produce a lower turnover in the armed services, saving precious man-hours that are now wasted in training or being trained. Also it would permit intensive training and a higher average level of skill for the men in service; and it would encourage the use of more and better equipment. A smaller, but more highly skilled, technically competent, and better armed force could provide the same or greater military strength.

A volunteer army would preserve the freedom of individuals to serve or not to serve. Or, put the other way, it would avoid the arbitrary power that now resides in draft boards to decide how a young man shall spend several of the most important years of his life — let alone whether his life shall be risked in warfare. An incidental advantage would be to raise the level and tone of political discussion.

A volunteer army would enhance also the freedom of those who now do not serve. Being conscripted has been used as a weapon — or thought by young men to be so used — to discourage freedom of speech, assembly, and protest. The freedom of young men to emigrate or to travel abroad has been limited by the need to get the permission of a draft board if the young man is not to put himself in the position of inadvertantly becoming a law-breaker.

ONE GOOD EXAMPLE of the effect on freedom of a volunteer army is that it would completely eliminate the tormenting and insoluble problem now posed by the conscientious objector — real or pretended.

A by-product of freedom to serve would be avoidance of the present arbitrary discrimination among different groups. A large faction of the poor are rejected on physical or mental grounds. The relatively well-to-do used to be in an especially good position to take advantage of the possibilities of deferment offered by continuing their schooling. Hence the draft bears disproportionately on the upper lower classes and the lower middle classes. The fraction of high-school graduates who serve is vastly higher than of either those who have gone to college or those who dropped out before finishing high school.

A volunteer army would permit young men, both those who serve and those who do not, to plan their schooling, their careers, their marriages, and their families in accordance with their own long-run interests. As it is, the uncertainty about the draft affects every decision they make and often leads them to behave differently than they otherwise would in the correct or mistaken belief that they will thereby reduce the chance of being drafted.

Substitution of a volunteer army (or of a lottery) for the present draft would permit colleges and universities to pursue their proper educational function, freed alike from the incubus of young men — probably numbering in the hundreds of thousands — who would prefer to be at work rather than in school but who now continue their schooling in the hope of avoiding the draft, and from controversy about issues strictly irrelevant to their educational function. We certainly need controversy in the universities — but about intellectual and educational issues, not whether to rank or not to rank students for their draft boards.

Similarly, the community at large would benefit from the reduction of unwise early marriages contracted at least partly under the whip of the draft and from the probably associated reduction in the birth rate. Industry and government would benefit from being able to hire young men on their merits, not their deferments.

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So long as compulsion is retained, inequity, waste, and interference with freedom are inevitable. A lottery would only make the arbitrary element in the present system overt. Universal national service would only compound the evil — regimenting all young men, and perhaps women, to camouflage the regimentation of some.

If a very large fraction of the young men of the relevant age groups are required — or will be used whether required or not — in the military services, the advantages of a volunteer army become very small. It would still be technically possible to have a volunteer army, and there would still be some advantages, since it is doubtful that literally 100 per cent of the potential candidates will in fact be drawn into the army; but if nearly everyone who is physically capable will serve anyway, there is little room for free choice, the avoidance of uncertainty, and so on. To rely on volunteers under such conditions would then require very high pay in the armed services, and very high burdens on those who do not serve, in order to attract a sufficient number into the armed forces. This would involve serious political and administrative problems. To put it differently, and in terms that will become fully clear to non-economists only later, it might turn out under these special circumstances that the implicit tax of forced service is less bad than the alternative taxes that would have to be used to finance a volunteer army.

Hence, for a major war, a strong case can be made for compulsory service. And indeed, compulsory service has been introduced in the United States only under such conditions — in the Civil War, World War I, and World War II. It is hardly conceivable that it could have been introduced afresh in, say, 1950, if a system of compulsory service had not so recently been in full swing. As it was, the easiest thing to do when military needs for manpower rose was to reactivate the recent wartime technique.

Under conditions found at present, the number of persons who volunteer for armed service is inadequate to man the armed forces, and even so, many who volunteer do it only because they anticipate being drafted. The number of "true" volunteers is clearly much too small to man armed forces of our present size. This undoubted fact is repeatedly cited as evidence that a volunteer army is unfeasible.

It is evidence of no such thing. It is evidence rather that we are now grossly underpaying our armed forces. The starting pay for young men who enter the armed forces is now about $45 a week — including not only cash pay and allotments but also the value of clothing, food, housing, and other items furnished in kind. When the bulk of young men can command at least twice this sum in civilian jobs, it is little wonder that volunteers are so few. Indeed, it is somewhat surprising that there are as many as there are.

TO MAN THE ARMY with volunteers would require making conditions of service more attractive — not only higher pay but also better housing facilities and improved amenities in other respects. It will be replied that money is not the only factor young men consider in choosing their careers. This is certainly true — and equally certainly irrelevant. Adequate pay alone may not attract, but inadequate pay can certainly deter. Military service has many nonmonetary attractions to young men—the chance to serve one's country, adventure, travel, opportunities for training, and so on. Not the least of the advantages of a volunteer army is that the military would have to improve their personnel policies and pay more attention to meeting the needs of the enlisted men. They now need pay little attention to them, since they can fill their ranks with conscripts serving under compulsion. Indeed, it is a tribute to their humanitarianism — and the effectiveness of indirect pressure via political process — that service in the armed forces is not made even less attractive than it now is.

The personnel policies of the military have been repeatedly criticized, and, with no spur, repeatedly left unreformed. Imaginative policies designed to

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make the armed forces attractive to the kind of men the armed services would like to have (plus the elimination of compulsion which now makes military service synonomous with enforced incarceration) could change drastically the whole image that the armed services present to young men. The Air Force, because it has relied so heavily on real volunteers, perhaps comes closest to demonstrating what could be done.

The question how much more we would have to pay to attract sufficient volunteers has been analyzed intensively in the Department of Defense study of military recruitment. Based on a variety of evidence collected in that study, Walter Oi estimates in his paper[1] that a starting pay (again including pay in kind as well as in cash) of something like $4,000 to $5,500 a year — about $80 to $100 a week — would suffice. This is surely not an unreasonable sum. Oi estimates that the total payroll cost (after allowing for the savings in turnover and men employed in training) would be around $3 billion to $4 billion a year for armed forces equivalent to 2.7 million men under present methods of recruitment, and not more than $8 billion a year for armed forces equivalent to the present higher number of men (around 3.1 or 3.2 million men). Based on the same evidence, the Defense Department has come up with estimates as high as $17.5 billion. Even the highest of these estimates is not in any way unfeasible in the context of total Federal government expenditures of more than $175 billion a year.

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Whatever may be the exact figure, it is a highly misleading indication of the cost incurred in shifting from compulsion to a volunteer army. There are net advantages, not disadvantages, in offering volunteers conditions sufficiently attractive to recruit the number of young men required.

This is clearly true on the level of individual equity: the soldier no less than the rest of us is worth his hire. How can we justify paying him less than the amount for which he is willing to serve? How can we justify, that is, involuntary servitude except in times of the greatest national emergency? One of the great gains in the progress of civilization was the elimination of the power of the noble or the sovereign to exact compulsory servitude.

ON THE DIRECT budgetry level, the argument that a volunteer army would cost more simply involves a confusion of apparent with real cost. By this argument, the construction of the Great Pyramid with slave labor was a cheap project. The real cost of conscripting a soldier who would not voluntarily serve on present terms is not his pay and the cost of his keep: it is the amount for which he would be willing to serve. *He* is paying the difference. This is the extra cost to him and must be added to the cost borne by the rest of us. Compare, for example, the cost to a star professional football player and to an unemployed worker. Both might have the same attitudes toward the army and like — or dislike — a military career equally; but because the one has such better alternatives than the other, it would take a much higher sum to attract him. When he is forced to serve, we are in effect imposing on him a tax in kind equal in value to the difference between what it would take to attract him and the military pay he actually receives. This implicit tax in kind should be added to the explicit taxes imposed on the rest of us to get the real cost of our armed forces.

If this is done, it will be seen at once that abandoning the draft would almost surely reduce the real cost — because the armed forces would then be manned by men for whom soldiering was the best available career, and who would hence require the lowest sums of money to induce them to serve. Abandoning the draft might raise the apparent money cost to the government, but only because it would substitute taxes on the general population in money for taxes on certain "selected" young men in kind.

There are also some important offsets even to the increase in apparent money

[1] See his article, pp. 13-16, this issue.

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cost. In addition to the lower turnover, already taken into account in the estimates cited, the higher average level of skill would permit further reductions in the size of the army, saving monetary cost to the government. Because manpower is cheap to the military, they now tend to waste it, using enlisted men for tasks that could be performed by civilians or machines, or eliminated entirely. Moreover, better pay at the time to volunteers might lessen the political appeal of veteran's benefits that we now grant after the event. These now cost us over $6 billion a year, or one-third as much as current annual payroll costs for the active armed forces — and they will doubtless continue to rise under present conditions.

There are still other offsets. Colleges and universities would be saved the cost of housing, seating, and entertaining hundreds of thousands of young men. Total output of the community would be higher both because these men would be at work and because the young men who now go to work could be offered and could accept jobs requiring considerable training instead of having to take stop-gap jobs while awaiting a possible call to the service. Perhaps there are some effects in the opposite direction, but I have not been able to find any.

Whatever happens to the apparent monetary cost, the real cost of a volunteer army would almost surely be less than of the present system and it is not even clear that the apparent monetary cost would be higher — if it is correctly measured for the community as a whole. In any event, there can be little doubt that wholly volunteer forces of roughly the present size are entirely feasible on economic and fiscal grounds.

It has been argued that a military career would be so much more attractive to the poor than to the well-to-do that volunteer armed services would be staffed disproportionately by the poor. Since Negroes constitute a high proportion of the poor, it is further argued that volunteer armed forces would be largely black.

There is first a question of fact. This tendency is present today in exaggerated form — the present levels of pay are *comparatively* more attractive to blacks than the higher levels of pay in voluntary armed forces would be. Yet the fraction of persons in the armed forces who are black is roughly the same as in the population at large. It has been estimated that even if every qualified Negro who does not now serve were to serve, whites would still constitute a substantial majority of the armed forces. The military services require a wide variety of skills and offer varied opportunities. They have always appealed to people of varied classes and backgrounds and they will continue to do so. Particularly if pay and amenities were made more attractive, there is every reason to expect that they would draw from all segments of the community.

In part, this argument involves an invalid extrapolation from the present conscripted army to a volunteer army. Because we conscript, we pay salaries that are attractive only to the disadvantaged among us.

BEYOND THIS QUESTION of fact, there is the more basic question of principle. Clearly, it is a good thing to offer better alternatives to the currently disadvantaged. The argument to the contrary rests on a political judgment: that a high ratio of Negroes in the armed services would exacerbate racial tensions at home and provide, in the form of ex-soldiers, a militarily trained group to foment violence. Perhaps there is something to this. My own inclination is to regard it as the reddest of red herrings. Our government should discriminate neither in the civil nor in the military services. We must handle our domestic problems as best we can and not use them as an excuse for denying blacks opportunities in the military service.

One of the advantages cited for conscription is that it permits great flexibility in the size of the armed services. Let military needs suddenly increase, and draft calls can be rapidly stepped up, and conversely. This is a real advantage, but can easily be overvalued. Emergencies must be met with forces in be-

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ing, however they are recruited. Many months now elapse between an increase in draft calls and the availability of additional trained men.

The key question is how much flexibility is required. Recruitment by voluntary means could provide considerable flexibility — at a cost. The way to do so would be to make pay and conditions of service more attractive than is required to recruit the number of men that it is anticipated will be needed. There would then be an excess of volunteers — queues would form. If the number of men required increased, the queues could be shortened, and conversely.

The change in scale involved in a shift from conditions like the present to a total war is a very different matter. If the military judgment is that, in such a contingency, there would be time and reason to expand the armed forces many-fold, either universal military training, to provide a trained reserve force, or stand-by provisions for conscription could be justified. Both are very different from the use of conscription to man the standing army in time of peace or brush-fire wars, or wars like that in Viet Nam which require only a minority of young men.

The flexibility provided by conscription has another side. It means that, at least for a time, the Administration and the military services can proceed fairly arbitrarily in committing U. S. forces. The voluntary method provides a continuing referendum of the public at large. The popularity or unpopularity of the activities for which the armed forces are used will clearly affect the ease of recruiting men. This is a consideration that will be regarded by some as an advantage of conscription, by others as a disadvantage.

THERE IS NO DOUBT that large armed forces plus the industrial complex required to support them constitute an ever-present threat to political freedom. Our free institutions would certainly be safer if the conditions of the world permitted us to maintain smaller armed forces.

This valid fear has been converted into an invalid argument against voluntary armed forces. They would constitute a professional army, it is said, that would lack contact with the populace and become an independent political force, whereas a conscripted army remains basically a citizen army. The fallacy in this argument is that such dangers come primarily from the senior officers, who are now and always have been a professional corps of volunteers. A few examples from history will show that the danger to political stability is largely unrelated to the method of recruiting enlisted men. Napoleon and Franco both rose to power at the head of conscripts. The recent military takeover in Argentina was by armed forces recruiting enlisted men by conscription. Britain and the U. S. have maintained freedom while relying primarily on volunteers, Switzerland and Sweden while using conscription. It is hard to find any relation historically between the method of recruiting enlisted men and the political threat from the armed forces.

However we recruit enlisted men, it is essential that we adopt practices that will guard against the political danger of creating a military corps with loyalties of its own and out of contact with the broader body politic. Fortunately, we have so far largely avoided this danger. The broad basis of recruitment to the military academies, by geography as well as social and economic factors, the ROTC programs in the colleges, the recruitment of officers from enlisted men, and similar measures, have all contributed to this result.

For the future, we need to follow policies that will foster recruitment into the officer corps from civilian activities — rather than primarily promotion from within. The military services no less than the civil service need and will benefit from in-and-outers. For the political gain, we should be willing to bear the higher financial costs involved in fairly high turnover and rather short average terms of service for officers. We should follow personnel policies that will continue to make at least a period of military service as an officer attractive to

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young men from many walks of life.

There is no way of avoiding the political danger altogether, but it can be minimized as readily with a volunteer as with a conscripted army.

Given the will, there is no reason why the transition to volunter armed forces cannot begin at once and proceed gradually by a process of trial and error. We do not need precise and accurate knowledge of pay and amenities that will be required. We need take no irreversible step.

OUT OF SIMPLE justice, we should raise the pay and improve the living conditions of enlisted men. If it were proposed explicity that a special income tax of 50 per cent be imposed on enlisted men in the armed services, there would be cries of outrage. Yet that is what our present pay scales plus conscription amount to. If we started rectifying this injustice, the number of "real" volunteers would increase, even while conscription continued. Experience would show how responsive the number of volunteers is to the terms offered and how much these terms would have to be improved to attract enough men. As the number of volunteers increased, the lash of compulsion could fade away.

This picture is overdrawn in one important respect. Unless it is clear that conscription is definitely to be abolished in a reasonably short time, the armed services will not have sufficient incentive to improve their recruitment and personnel policies. They will be tempted to procrastinate, relying on the crutch of conscription. The real survival strength of conscription is that it eases the life of the military high command. Hence, it would be highly desirable to have a definite termination date set for conscription.

The case for abolishing conscription and recruiting our armed forces by voluntary methods seems to me overwhelming. One of the greatest advances in human freedom was the commutation of taxes in kind to taxes in money. We have reverted to a barbarous custom. It is past time that we regain our heritage.

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Conscription in a Democratic Society

RICHARD FLACKS

I DO NOT SEE HOW it can be denied that the institution of conscription is by definition alien to a genuinely free society. Therefore, I want to stress at the outset my view that the abolition of this institution ought to be a very high priority for Americans. This goal is, however, utopian so long as the United States continues to follow a policy based on the assumption that the status quo in every part of the world must be maintained by American military power. Thus, the only really worthwhile question to ask about conscription — how we can get rid of it — cannot be answered without debating the whole scope of American foreign policy.

It is, however, not entirely fruitless to raise some questions about the way in which conscription is used by our society, given the assumption that some form of Selective Service is going to be with us for the indefinite future. This may be particularly necessary for those of us who oppose the draft altogether, since much of the present discussion concerns how best to *extend* the scope of military training institutions, and how better to *integrate* them into the fabric of American life. My concern here, then, will be not with the many inequities of the present draft system, but with discussing ways of limiting the impact of this alien system and of preventing or diluting some of its more pernicious effects.

In my view, a fundamental flaw in the current draft system is that it reinforces and exacerbates a serious constitutional weakness in American political life, namely, the enormous delegation to the President of power in international commitments, to wage war and mobilize national resources and public consent, which is not substantially checked or limited by private power. The institution of permanent, compulsory military service facilitates the freedom of the President in this regard and enables him to deploy military forces on a very large scale without achieving prior popular consent. Such built-in Presidential irresponsibility is intrinsically repugnant; from a pragmatic point of view, its consequences can be read in Viet Nam.

It is my hope that serious study will be given to ways in which Presidents can be made responsible for their international policies, and to mechanisms by which the Presidential ability to mobil-

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Richard Flacks is Assistant Professor of Sociology at the University of Chicago. He is author of a number of articles, and has actively supported the Students for a Democratic Society and other New Left organizations. This article is adapted from the paper presented to the Conference on the Draft held at the University of Chicago in December 1966.

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ize for war can be balanced and checked. Many of the most important considerations in this regard lie outside the scope of this paper; but, it seems to me, there are ways in which the contribution of the Selective Service System to Presidential irresponsibility can be reduced or reversed.

First, it seems to me inadmissible that those most likely to be compelled to kill and die for often highly questionable policies do not even have the right to vote. If we are going to draft eighteen, nineteen, and twenty-year-old men, then we ought to allow them access to the ballot box. This, I think, would not be merely a formalistic reform, permitting young men to ratify their own induction, although it might turn out to be only that. Rather, it seems plausible that the introduction of large numbers of young people into the political arena would create a substantial new constituency for policies of restraint and internationalism —a constituency which might provide some check on the patriotic hawking of elderly politicians.

Second, it seems to me that we ought to adopt the notion, which prevails in some other countries such as Canada, that conscripts ought not to be used indiscriminately in foreign wars. The only legitimate use for draftees ought to be for the defense of the nation's most vital interests. Senator Gruening's proposal to prevent the President from using conscripts involuntarily in combat without specific Congressional mandate seems to me to be a reasonable, if minimal, way to insure some Congressional check on Presidential power. A stronger, and in my view more legitimate, proposal would be to prevent the use of draftees in combat (who do not subsequently volunteer for such duty) without a specific declaration of war. In any case, some mechanism of this sort would be a desirable way of bringing the power of the President to escalate conflicts under some degree of democratic control, while establishing conscription as an institution for national defense rather than an instrument for imperial adventure.

Third, it seems to me necessary to increase the freedom of citizens to resist being mobilized for wars of questionable justification. One way to do this is to broaden the grounds for conscientious objection. Conscientious objection can be founded on philosophical and political grounds as well as religious ones. Moreover, if there is any sense to the distinction between just and unjust wars, then it is improper to deny the possibility of conscientious objection to particular wars. There is, as far as I can tell, no practical difficulty in establishing whether a young man is a sincere objector on non-religious grounds, which is not present under the present definition of conscientious objection. It seems to me inconsistent with our best traditions to compel a young man to fight a war against his conscience, even if his basic values have been shaped by philosophical or political rather than religious influences; and it would seem to me desirable from the point of view of limiting Presidential power, if each inductee had the freedom to test whether his conscience would be violated by serving or fighting in behalf of current policy.

FINALLY, I WOULD argue that the traditional view of the draft as an alien institution must be preserved, and all attempts to make conscription a permanent, integral feature of American society must be firmly resisted. The common goal of liberals and democrats in the coming period ought to be to reduce rather than enhance areas of compulsion in American life. On this view, there is serious danger in some of the proposals now being offered to reduce the inequities of Selective Service. I refer here not only to attempts to revive universal military training, but to well-intentioned suggestions of universal conscription for "national service." The idea of national service for youth is an exciting one, but the notion that it should be compulsory or tied to conscription is literally totalitarian. Similarly, the proposals to expand the scope of induction to include unqualified youth, so that they may receive the educational benefits of the armed services, is highly reminiscent of the procedures of a garrison state. It is

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not a matter for pride that the best opportunities of self-improvement for underprivileged youth are offered by the military, or that the only fully integrated educational institution in our society is the army. This situation is a measure of the default of the larger society; the war on poverty is not going to be won by giving the military even more control over the lives of young men.

The only really worthwhile goal of an affluent society as regards its youth is to promote the maximum possible freedom and opportunity for self-development. At present upper status youth have enormous opportunity for years of higher education, and many avenues open for cultural enrichment and personal fulfillment. These opportunities are widely buttressed by public subsidies in the form of free tuition, scholarships, fellowships, loans, etc. In the long run, the only way to reduce the inequities of the draft and to offset present trends toward a quasi-caste system among youth, is to extend these privileges, opportunities, and subsidies (where necessary) to all youth. What appears to be needed is a massive opening-up of the range of choices for youth so that each has a chance to select experiences of service, of education and training, of cultural enhancement and self-realization.

I want to conclude by indicating an important problem posed by these suggestions for limiting the uses of conscription. The present system has the apparent virtue of permitting a partial mobilization for wars as large as Viet Nam, without substantially increasing the militancy of the population, without developing major war fever, and without very widespread suppression of dissent. It may well be that mechanisms such as those proposed here which would limit the Executive's freedom of action in this regard will "back-fire," and produce more systematic efforts to engineer full popular support for war efforts. This situation would be dangerous domestically; it could also lead to more rapid escalation of conflicts. Such considerations should be given due weight; but on the other hand, we need to ask whether the costs added by these constraints might not make Presidents more cautious and rational when they make decisions about the deployment of military forces.

At any rate, these proposals to limit the uses of conscription and to resist its integration into American society seem to run counter to the drift of present policy. The likelihood of their adoption by Congress in the near future seems very small. In this situation, it is heartening that a significant number of inductees have decided to risk jail by undertaking legal tests of the current definition of conscientious objection, by refusing induction during a war which they perceive as unjust and illegal, by emigrating to Canada, and by publicly refusing to report for combat duty in such a war. These men may well be speaking for a sizeable portion of their generation in questioning the legitimacy of conscription. They deserve the highest degree of support from those concerned to preserve and extend democratic values.

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The Real Costs of a Volunteer Military

WALTER Y. OI

ONE OF SEVERAL proposed alternatives to the current draft is the establishment of an all-volunteer force. To say that a particular alternative such as an all-volunteer force is preferable to the current draft implies that the cost of this alternative is, in some sense, lower than the cost of procuring military personnel with the current draft system. Yet in his statement before the House Armed Services Subcommittee, T. D. Morris, Assistant Secretary of Defense, indicated that an all-volunteer force of 2.65 million men would increase military payroll budgets by $4 to $17 billion per year.

The budgetry payroll of the Department of Defense is *not,* however, the economic cost of labor resources allocated to the uniformed services. The presence of a draft has surely affected both the level and structure of military pay; moreover, the men who actually entered active military service were recruited or conscripted through manpower procurement programs which rely in differing degrees on the coercive influence of a draft liability. A change to a purely voluntary force would have to be accompanied by increases in military compensation, and substantial changes in the procurement channels through which men are recruited into the armed forces. The composition and structure of an all-volunteer force would thus differ significantly from that of the present force, which contains many men who were enlisted under the pressure of a draft liability. A third alternative, such as the lottery, would yet produce a different composition of the armed forces; but this article will deal with cost comparisons for only two military manpower procurement arrangements—a purely voluntary one, and the one which has evolved under the current draft law.

There are at least three senses in which the maintenance of a defense establishment entails a financial cost: (1) budgetry cost, (2) cost to the economy, and (3) cost to the individual military service participants. According to the defense budget for fiscal year 1965, the cost for active-duty military personnel was $12.7 billion, while retirement benefits accounted for another $1.4 billion. If the higher levels of military pay which are required to attract sufficient volunteers were applied to the probable age structure of a voluntary force, this writer obtains an estimate of the budg-

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etary cost that is $4 billion greater than that of a mixed conscript and volunteer force.[1]

The financial cost of military personnel provides a measure for the value of the civilian outputs that could have been produced by the labor which was allocated instead to the armed forces; but this concept of cost completely ignores the welfare loss due to the occupational preferences of the individuals themselves for military versus civilian employments. In a sense, it is just a measure of technical efficiency, indicating the alternative cost in terms of foregone civilian output that was required to achieve given goals of military preparedness. The concept of full economic cost, on the other hand, acknowledges the occupational preferences of prospective recruits. If an individual has an aversion for service life, he could, in principle, be compensated enough to induce him to volunteer. Presently, individuals who would require such compensation are involuntarily inducted, while others reluctantly volunteer before they are drafted. These imputed compensations to overcome aversions for military service would be included in any computation of the full economic cost of acquiring military personnel; but our task here is merely to arrive at an estimate of financial costs. Finally, it must be remembered that the mechanics of the current draft law impose costs in the form of uncertainties on youths in the draftable ages. The incidence of inductions (who will be drafted) and the time of induction are not known in advance.

TO EVALUATE THE comparative costs of an all-volunteer force and of the force which has evolved under current law, this writer first examined the implications of a continued draft which produced a mixed force of conscripts, true volunteers, and draft-motivated, reluctant volunteers. It was assumed for this paper that active duty force strengths in the years ahead (1970-75) would return to their pre-Viet Nam levels of 2.65 million men, in order to utilize available Department of Defense data.

The manpower procurement channels which have evolved under the current draft are reflected in the patterns of active military service which were observed in the six years prior to Viet Nam, 1960-65. An anaylsis of these patterns indicates the probable characteristics of a mixed force under a continued draft. In order to maintain a force strength of 2.65 million men, annual accessions of 507,700 men must be recruited or conscripted from civilian life. With a smaller male population in the period prior to Viet Nam, roughly 59 per cent of males who were physically and mentally qualified for military service entered the active duty forces. By 1970-75 it is projected that only 38.5 per cent of qualified males of military age will be demanded by the armed services.

To estimate the cost of an entirely voluntary force, it is necessary first to consider the case assuming that the draft would be abolished with no accompanying changes in pay or other recruitment incentives. Under this assumption, the services would obviously lose the draftees who had accounted for 21 per cent of the accessions to enlisted ranks in 1960-65. In addition, a significant fraction of regular enlistees could properly be called reluctant volunteers who enlisted in preference to being drafted. The incidence of reluctant volunteers was inferred from a survey of responses to the question:

> If there had been no draft, and you had no military obligation, do you think you would have volunteered for active military service?

If the draft were eliminated, reluctant volunteers would also likely be lost from the armed forces. Voluntary enlistments in all services could be expected to fall by 38.1 percent, and to the regular army alone by 43.2 per cent. Moreover, these surveys indicate that 41.3 per cent of

[1] The reader is directed to the author's "The Costs and Implications of an All-Volunteer Force," in Sol Tax, ed., *The Draft* (Chicago: University of Chicago Press, 1967), chap. xxii, pp. 221-51.

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newly commissioned officers were motivated to enter military service because of the threat of being drafted.

The fall in initial accessions due to the loss of conscripts and reluctant volunteers would result in a decline in the sustainable force strength. Since a voluntary force, however, would enjoy a greater rate of re-enlistment, the decline in strength would be smaller than the fall in accessions. The annual turnover rate of Army enlisted men is around 25 per cent when over half of accessions are draftees and reluctant volunteers. If all enlistments were true volunteers, it is estimated that the turnover rate could be lowered to 17 per cent.

The improved retention patterns which can be expected to apply to an all-volunteer force were then used to estimate the gross flow demand for accessions to achieve the assumed strength objective of 2.65 million men. The deficit between requirements (gross flow demand for assumed strengths) and voluntary enlistments could be eliminated by attracting more volunteers with higher military pay. To eliminate a deficit of 1.6 (the ratio of requirements to voluntary enlistments) in the Army, it was estimated that first term military pay would have to be increased by 68 per cent, from $2,500 to $4,200 per year. As a result, the pay of career men in the Army would have to increase by 17 per cent also. In addition to higher levels of military pay, the move to a voluntary force would imply a change in the composition of the armed services — the age structure would move to a larger fraction of older men in the career force. It would also be anticipated that a smaller fraction of officers would be college graduates.

IN BOTH THE MIXED and voluntary type of miltary force, 2.65 million men, it is assumed, would be required to maintain the defense of the nation, and thereby would be kept out of the civilian labor force. The financial cost to the economy can thus be defined as the opportunity cost equal to the value of goods and services that could have been produced by these servicemen. If servicemen were paid the same incomes as civilians of comparable ages and educational attainments, the men in the mixed force would earn $13 billion per year. The corresponding figure for the voluntary force would be $14.2 billion, or some 9.1 per cent higher than the mixed force, reflecting a preservation within the armed forces of the acquired military skills and experience of the older men, while in the mixed force many of the men do not remain in the services beyond their initial term — thus losing this experience. Although the voluntary force has a lower average educational attainment, it also contains older men who usually earn higher salaries than younger men, and on balance the age effect outweighs the smaller average education. To the extent that military service is not a perfect substitute for civilian job experience, the financial cost to the economy of the present type of mixed force contains a downward bias: civilian employment experience provides a man with skills he can take directly to a new job, while military experience is only partially useful in later employment.

The financial cost to individual military service participants is restricted to their monetary losses, suffered by those men who were coerced into active military service by the draft liability. By 1970-75, it is projected that only 55,300 men would need to be involuntarily drafted; but another 153,700 men per year would be expected to volunteer for enlisted ranks because of their draft liabilities. By using data for 1963-64, this writer was able to arrive at estimates of annual civilian and first-term military incomes for these reluctant service participants. The differentials between alternative civilian and military incomes represents an implicit tax that is placed on those who were forced to serve. If each draftee serves 1.9 years, and each reluctant volunteer for 3.5 years, the aggregate implicit tax which is borne by members in this age group is estimated to be $691 million. To the extent that some officers (notably doctors and dentists) serve an initial tour of active duty because of the draft, the

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size of this invisible tax is even larger. If reluctant participants were compensated for their aversion to military service life, it is estimated that the military pay budget would have to be increased by $826 million a year. This is the amount of the implicit tax, or cost, that is imposed on men who are coerced into military service by the draft. If the true volunteers were awarded the same pay as the reluctant service participants, the economic cost of the draft then easily exceeds the budgetary cost of moving to an all-volunteer force. It should be noted that these financial costs altogether disregard the welfare loss through the occupational preferences of individuals for military versus civilian jobs.

To sum up, a force strength of 2.65 million men could be achieved on a purely voluntary basis by 1970-75 if the military pay budget were increased by approximately $4 billion. Because of its higher retention rates, only 27.5 per cent of qualified males in each age class would be needed to sustain this voluntary force. On the other hand, if the draft is continued, the higher personnel turnover in a mixed force would mean that 38.5 per cent of all qualified males will have to enter military service each year. Some men will be involuntarily inducted, while others reluctantly volunteer because they might be drafted.

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The Politics of Conscription

BRUCE K. CHAPMAN

THE BELIEF THAT political arrangements afford an efficient means to resolve problems, and the abstraction from potential special-interest pleadings, inspires much of the reliance upon government action and the distrust of the voluntary sector apparent in public policy today. The examination of the interrelationship between incompetence and the automatic political stabilizers which preclude any radical elimination of this incompetence is a most underworked field. The operations of the Selective Service System in the United States provide a sterling example of gross bungling by a political agency generating a continued demand for reliance upon that agency.

Illustrative of one aspect of bungling by Selective Service is its handling of the I-A pool of men available for service. At any point in time, the Selective Service System does not know how many men are available to be inducted, how many will be available the following month, how many are needed by the Army, or even where the men are located geographically. This is a serious indictment, and it can be supported by examining the evidence provided by the Selective Service System itself.

In February 1966, General Hershey appeared before the Subcommittee on Education of the House Committee on Education and Labor to explain just how the draft was working and why it was necessary for students to be threatened with induction. General Hershey sent the Subcommittee a projected estimate of the draft's situation during the first half of 1966, containing arithmetic errors which left 100,000 men unaccounted for. It was returned. In the second version, the Selective Service claimed that given the I-A pool at the end of January, the number of new nineteen-year-olds being classified I-A, draft calls of 40,000 men per month, and enlistments of 50,000 per month, the I-A pool of "available" men would be exhausted and actually deficient of 5207 men on June 30, 1966. This alarming prediction convinced many that a draft of students was justified.

But it was not accurate. Monthly draft calls did not reach 40,000 during the whole spring, nor, for that matter, until October. February's call was 29,400; March, 22,400; April, 21,700; May, 34,600; June, 18,500. Selective Service overestimated its needs by more than a third during the period; indeed, February, March, and April quotas were already known to Hershey when the projections

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were made. The estimate of enlistments may have been more accurate, but Hershey's assertion that they represented a drain on the I-A pool was not. According to the Department of Defense, nearly half of the new enlistments (45 per cent in 1965) come from men under nineteen, men who are not yet in the I-A pool, and who, because of their enlistment, never will be. Another part of the 5,000 (for instance, deferred students) is also drawn from outside the I-A pool at the time of their enlistment. Finally, the Selective Service's estimates neglected to take into account the new manpower acquired by its own reclassification of some I-Y's (those with temporary mental and physical deferments) or those gained by the Army's lowering of its mental standards.

Consequently, perhaps much to the surprise of draft officials, there was no manpower crisis at the end of June. No one knows how many young men on the draft's borderline were reclassified during that period and called up by local boards anxiously anticipating an imminent shortage. How can the draft make such mistakes?

Early in 1966, the author attempted to find out, following up a public remark by General Hershey which described a clogged "pipeline" of paperwork in the draft bureaucracy. Some men's reclassification and induction papers were—and are—handled more efficiently than others. The ones whose papers were delayed or stalled are said to be in the "pipeline," and while it is likely that some inefficiency must arise in any system, in January 1966 General Hershey said some 500,000 men out of less than 650,000 in the whole I-A pool were in the pipeline. According to a source at the Labor Department's Office of Manpower, Automation and Training, the problem has been growing since 1957, when only about 20,000 men were in the pipeline. By 1966 General Hershey could declare, "I've never been in a time where the situation was more confusing than it is now, in terms of having numbers of registrants I could really count."[1]

WHEN A MAN TURNS eighteen he must register for the draft. If by age nineteen he does not obtain a deferment, he is classified I-A and is subject to induction. There presently are some 500,000 men turning nineteen each month, of whom about 30,000 will be classified I-A, while the others are either temporarily or permanently deferred. Other men come into the I-A pool, for example, when they lose their II-S student deferment upon graduation. Within the I-A pool, however, there are priorities for drafting. All single men aged nineteen to twenty-six, oldest first, are supposed to be called before married men, who also are called oldest first. Therefore, when a man is called up, supposedly all the other men of greater priority have already been drafted. But if in the process of being inducted, some men higher up had their papers delayed, they are "not available" to meet a particular month's call, and someone further down on the lists—maybe a married man or a student who has to be reclassified for the purpose—is called instead. In January 1966, 522,472 out of 641,958 men in the I-A pool were "not available" to meet monthly quotas.

With local draft boards directed by the Selective Service System, and with the "entrance and examination" (i.e., "induction") centers directed by the Department of Defense, it is not easy to trace the vagaries of the "pipeline." The Selective Service System tends to blame the jam-up on the Pentagon, and a spokesman for the Army (which has charge of the induction centers) refers to it as "an internal problem of the Selective Service." There is reason to think it is the fault of both.

The efficiency of the induction centers in processing the men is a fit subject for debate. When a man takes his mental and physical tests, the Army is required to return the results, in two sets, to the registrant's local draft board within five days. An Army survey late in 1965

[1] "Draft Now Hits Men Long Thought Safe," *New York Herald Tribune*, January 23, 1966, p. 16.

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showed the five-day processing going smoothly, with a national backlog of only 6,000 men's papers at any one time. Yet the Selective Service figures at the beginning of the new year showed 114,062 men whose *first* set of test results had not been returned to local boards, and another 63,510 whose *second* set had not been returned. Both sets must be in the draft board's hands before a man can be ordered to report for induction.

Some men, as a result of the delays, are never drafted at all. A young man of the author's acquaintance in New York who was graduated from law school one June at age twenty-five was reclassified then, but was not notified to report for an examination until December—on Christmas Eve, in fact. The examination was conducted on New Year's Eve. The young man passed his twenty-sixth birthday on the 14th of February and, telephoning his draft board, found they were still awaiting receipt of his second set of test results. This is where the pipeline problem begins to develop, according to the Selective Service officials, criticizing the Army. Since the Army runs the induction centers, the Selective Service System feels there is little it can do to speed things up.

At the end of June 1966, the Department of Defense finally owned up, though indirectly, to the induction center delays, now claiming that the previously unacknowledged backlog of incomplete cases had been reduced by 32 per cent; but even on the day the Pentagon statement was released, a Boston registrant the author later interviewed was personally prodding an Army induction center to locate and deliver to the Selective Service the results of a physical examination given in December 1965, more than six months before.

The pipeline jam is even more severe outside the induction centers than within them, Among 522,000 men "not available" in the January 1966 statistics were 225,452 who were ordered for mental and physical examinations but whose papers informing them just where and when to report were delayed, "shuffling back and forth between draft boards and induction centers," as one draft spokesman put it. There are also pipeline lags for other reasons. Some 82,937 men in January 1966 were ordered for induction, but had to wait for room to open for them in an Army training camp. There must be a twenty-one day wait, by law, so that draftees can straighten out personal affairs. Since the Army can only take about 35,000 men per month, the pipeline bulge is still remarkably large. There are always a few men awaiting hearings or decisions on appeals, and some "delinquents" — including young men ignorant of the requirements to register at eighteen and a few genuine draft-dodgers—who make up the balance in the pipeline.

ONE INTERESTED AND close observer of the draft process is the Labor Department's Office of Manpower, Automation and Training, which likes to keep track of large movements of people to gauge their effect upon the labor market. An official there told the author in early 1966 that he found the draft's manpower dilemma hard to understand. "So far as we can judge," he said, "there should be no problem meeting needs even with increased calls." He then succinctly summed up much of the pipeline problem—and the inequities it causes—by ascribing it to the inefficiency of the draft's national operations. "Their bookkeeping is not that exact. They don't feel secure unless they can see where the next million men are coming from."[2]

The Viet Nam war has necessitated the draft's reaching deeper into its I-A pool and lowering the induction standards. Thus more people than at any time since the Korean War are being directly affected by the Selective Service System's operations. Draftees stand a better chance of being sent to Viet Nam than regulars, since only 12 per cent of the Armed Forces are draftees, while 33 per cent of the men in Viet Nam are draftees. Consequently, parents and other adults who have tended to shrug off the draft

[2] *The Wrong Man in Uniform* (New York: Trident Press, 1967), p. 47.

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as a necessary annoyance are now becoming alarmed that some men are being taken from civilian life and involuntarily assigned to combat by an inherently inequitable system. The war, which is only tangentially relevant to the draft imbroglio, has made possible the development of the draft as a public issue.

Ironically, the war may also be the most effective instrument for suppressing or at least stalling consideration of draft reform. The argument is made that to debate the draft now will falsely encourage the Communists in Viet Nam and falsely raise the hopes of young men now faced with the draft here at home. Yet the use of the Viet Nam war to inhibit debate on the draft was fortuitously deterred by Secretary McNamara himself, at a speech in Montreal, when he scored the lack of universality in the draft as inequitable and suggested a program of national service; and again by the President in July 1966, when he appointed a commission to study draft operations and in August described the draft's rules as a "crazy quilt."

Lacking a spontaneous market process for eliminating mistakes, the viability of political solutions to various problems depends on official willingness to change, to realize and correct mistakes. Indicative of official attitudes within the Selective Service System, General Hershey commented in 1955:

> There are many things that we would like to change in our present law. There are many things we would like to change in its operation. The question is whether, if you start changing them, you may not open up many other problems, and if we are going to have a democracy everybody must have their chance for a change. What the thing is going to look like when we get through many times impels us to go ahead with the evils that we face, so we live in some sort of accommodation with them rather than to jump into those we cannot fortell because, smart as we think we are, we haven't been able to forecast the future so that we could be 100 per cent accurate. . . .[3]

One would think that such a reactionary attitude would have sent Congress into spasms of indignation. Imagine the Secretary of State or the Secretary of Labor admitting in public that changes in our foreign policy or labor laws might be needed but should be ignored, lest one reform lead to another.

Perhaps because the draft was such a rolling political issue in 1940, it is now a sacrosanct one. General Hershey and a number of other politicians are all eager to keep the quadrennial question of draft extension falling on an odd-numbered year, believing it makes less difference how long the draft is extended than when it expires. He said of the 1966 bill, "Let us hope, pray, or what not that the thing expires on a year that is not divisible by two. There are several reasons that I need not explain to you why this is so."[4] The years "divisible by two" are election years, of course, and Hershey feared the influence of an aroused public. Whenever the draft extension has come up for review since 1951 there have been demands from a handful of Congressmen that it be extended for only one or two years, and a complete examination be made during that time of the whole draft situation. The *Congressional Record* shows that each time, some of the critics have been persuaded and others simply overwhelmed by spokesmen for the House and Senate Armed Services Committees, who argue that four years is needed to give Congress the time it needs to really investigate the problems of the draft and to devise new legislation. In 1963, Rep. Robert Kastenmeier of Wisconsin pointed out this pattern during House debate, but was himself apparently persuaded, for he joined reluctantly in voting the extension. The House vote that year was 373 to 3; in the Senate the bill passed unanimously after ten minutes of debate.

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[3] American Council on Education, *Proceedings of the Conference on Military Manpower*, ed. by R. F. Howe (Washington, D.C., 1955), p. 19.

[4] *Ibid.*

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Later, when criticism arises, Senate and House Armed Services Committees have typically referred newsmen to the Selective Service System, where General Hershey modestly declares that he only administers the laws; if Congress wants to change them, that's their business. Critics are soon then told that the draft will come up for extension again in another year or two, and the whole matter can be looked into then. A variation of the draft lobby's runaround technique is shown in the behavior of the House Armed Services Committee and its chairman, L. Mendel Rivers of South Carolina. When criticism of the pipeline and other aspects of the draft mounted in late 1965 and early 1966, Rivers told inquirers that his committe would begin hearings on the draft within a month. Public statements of such a pledge were made in early January 1966 and repeatedly thereafter; brief hearings were held in late June. Yet, then they were limited to testimony from General Hershey, a Defense Department spokesman, and several interested Congressmen. Chairman Rivers set the tone at the outset by declaring that while conscription might be "inimicable [*sic*] to our basic concept of individual freedom, we as a nation recognize that the alternatives can only result in jeopardizing our national security and then in turn, our precious heritage of freedom."[5] Having thereby opened and closed in the same breath the most important question of the hearings, Rivers, not surprisingly, was as markedly uninterested in exploring the efficiency of the draft as a manpower procurement system, as he is markedly uninterested in permitting other committes of Congress — such as Labor and Education — to hold hearings on the subject. Rivers in the past has been a supporter of higher military pay, but not primarily as a way of reducing the need for a draft, for he clearly isn't persuaded of any connection; and regrettably his committe, like its Senate counterpart, does not want a wide-ranging investigation.

[5] Statement of Rep. L. Mendel Rivers, June 22, 1966.

A somewhat different version of the stall against major draft reform can be seen in the attitude of the White House from 1964 to 1966. President Johnson has said as little as possible on the subject, and whatever his motivations, his actions have seemed more to anticipate and quiet the draft's critics than to spur reform.

ADLAI STEVENSON was the first major politician after the war to call for abolition of the draft, a 1956 Presidential campaign stand that was roundly attacked as irresponsible. Eight years later, in early 1964, the same proposal — unhappily also presented without the body of supporting research and analysis — was almost unnoticed when made by Senator Barry Goldwater. The Senator and his opponents in both parties apparently thought there were better issues to debate, and the draft question quickly dropped out of sight. It bobbed up again briefly in April 1964, when a group of sixteen Republican Congressmen of various ideological shades let it be known that they had prepared a long series of attacks on the draft and intended to take the House floor to demand a Congressional investigation.

Three days before the Republican floor presentation, President Johnson called a hasty press conference to announce that he had just that day directed the Department of Defense to conduct a full-scale analysis of the draft, to be completed at the cost of one million dollars by June 1965. What the President did not say was that a study ordered by the late President Kennedy was then seven months underway in the Defense Department, and that a concurrent investigation of the matter, underway in the Department of Labor, was being shelved under Pentagon pressure. When the Republican group, led by Congressman Thomas B. Curtis, took the floor three days later, they found that the Johnson statement had stolen their thunder and their press coverage. The Republican draft critics realized they

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had been outmaneuvered; some were particularly angry and suspicious of the Department of Defense's assignment to investigate its own operations. Rep. Curtis, one of the earliest and most determined draft critics in the country, told the House,

> My experience in Washington leads me to fear that any policy submitted by the Department of Defense, regardless of how much consultation occurs with other affected agencies, will be a policy in which every dispute has been settled in favor of the Department of Defense. This means that the very important considerations bearing on the draft that normally fall within the purview of the Departments of Labor and of Health, Education and Welfare, just to name two, will be downgraded to the Defense Department's interests. . . . [I also] fear that the Department of Defense will either ignore completely or will refuse to communicate to Congress and the public information that would not redound to the benefit of the Defense Department and its creature, the Selective Service System.
>
> Every man who has ever served in the peacetime army is well aware of the staggering amount of featherbedding and goldbricking that goes on. It is practically a maxim that if a job can reasonably be done by two men in four hours, it will require six men for eight hours.[6]

Could the Pentagon be counted upon to expose the military's own waste of manpower, thereby embarrassing itself and the President? Could the Pentagon be counted upon to hunt down training functions which could better be performed by civilians? Curtis predicted that each branch of the service would resist the proposal of such reforms in a Pentagon study for fear of losing its own relative power and prestige in the notorious inter-service rivalry.

Would the Pentagon expose any abuses of law and regulation by its own staff? Curtis charged that "it has been candidly admitted by Army recruiting sergeants, in private conversation, that beyond a certain point they are quietly advised 'from above' . . . not to recruit any more young men . . . because if Army recruiting figures showed how easy it is for the Army to meet its force levels through voluntary enlistments, Congress would review the necessity of the draft."[7] What was needed, Curtis asserted, was to call a number of recruiting sergeants to testify under oath about this alleged practice, and *that* the Department of Defense was unlikely to do. Nor was it likely to examine the implications of the "evasion mentality" caused by the draft or the socio-economic effects of "channeling" men into jobs and other situations approved by the draft authorities. In short, Curtis expected a whitewash.

Congress as a whole felt that it was best to let the President have his way. In 1959, under a Republican President, Senator Mike Mansfield (D-Montana) argued vehemently against a Presidential commission on the draft, saying, "It is about time that we got away from attempting to meet every problem by the appointment of a commission." Senator Richard B. Russell (D-Georgia), Chairman of the Senate Armed Services Committee, caustically observed that "Usually we end by getting the same recommendations from the commissions that we have had from the Department of Defense on the same subject. It is really a new way of asking for the views of the Department of Defense." Senator Lyndon B. Johnson of Texas apparently agreed, and helped defeat the commission proposal in the Senate. By 1964, President Johnson felt differently about Presidential commissions, as did Senators Mansfield and Russell.

A number of Congressmen, however, principally Republicans, were skeptical of the much-touted Defense Department study. Curtis read into the *Congressional Record* a newspaper column by John McLaughry describing the Johnson device as a "phantom committee" which "in practice . . . does little or

[6] *Congressional Record*, June 25, 1964, pp. 15056-57.

[7] *Ibid.*, p. 15057.

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nothing. Its main purpose is to quiet the demands of Congress by assuring the public that something is being done."

IN THE SPRING OF 1965, when the study was due to appear, the only evidence of it was a calculated leak to the press that abandoning conscription would be too costly to consider. Inquirers in June 1965 were told that the study was on the desk of Secretary McNamara, awaiting transmittal to the President. Summer passed, and autumn, and winter. By June 1966, a year after the completion date, the study had yet to be released, and its contents were still a secret even to General Hershey.

When Rep. Rivers held his hearing in the summer of 1966, a statement by Thomas D. Morris, Assistant Secretary of Defense for Manpower, was billed as an unveiling of the Pentagon report. Yet, though the Rivers committee seemed adequately satisfied with it, the statement was nothing more than a report on a report, touching on only a few of the charges leveled against the system, and giving no evidence that the Departmen of Defense had attempted a definitive study.

The twenty-three page, wide-margined, double-spaced Pentagon paper gave away its bias early by describing the growing supply of new manpower in America as "A principal problem affecting the operation of the draft system," as if abundance were a "problem" and not an opportunity. It noted that the percentage of men age twenty-six (the effective final date of draft vulnerability) with military service had dropped from 70 per cent in 1958 to 46 per cent in 1966 and would drop to 42 per cent in 1974 if the present size of the military were maintained, and to only 34 per cent if it were restored to the levels that preceded the Viet Nam build up.

Nonetheless, the Pentagon said it had concluded that the draft was an essential influence toward supplying the military manpower. "To document this influence," said Mr. Morris, "a questionnaire survey was made of a representative sample [of military personnel] to determine the extent to which the draft influenced their decision to enter military service." That "survey" concluded, on the basis of one simple question, "Would you have entered service if there had been no draft?," that only 41 per cent of regular officers and 38 per cent of enlistees would join without the pressure of the draft. Apparently no deeper probing of motivation was attempted! The Pentagon paper did not explain, for example, why its survey made no distinction between men who said they would have enlisted if there had been alternative influences and those who would not have enlisted under any circumstances. The Army, which has the hardest time getting enlistees, issued a report two years before the Pentagon study based on a more detailed survey which produced quite different results. The Army study is clearly more thorough and convincing than that released by the Pentagon; but the Pentagon apparently ignored it and came to the pessimistic conclusion that without the draft the military could not maintain its force levels.

As if pretending to test the hypothesis that increasing the levels of military pay would provide the necessary additional recruits for an all-volunteer military, the Pentagon reported on a survey that asked boys sixteen to nineteen whether pay alone would induce them to join the military if there were no draft. The findings were ("surprisingly") that "equal pay with civilian life was considered the most important inducement by less than 4 per cent." But pay alone is not the "most important inducement" in almost any career, especially in the minds of sixteen- to nineteen-year-olds; and if it were, many would not admit it. Nonetheless, good wages certainly *are* one important — an essentially important — inducement to almost anyone. The higher re-enlistment rate of blacks, who tend to come from poorer circumstances than whites, shows the importance of pecuniary rewards in the mili-

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tary. Here again, the Pentagon study's probing of motivation was simplistic, if not simpleminded.

The final estimates of how much pay scales and total outlays would have to be increased to provide an all-volunteer military not only differed by billions of dollars from the estimate leaked to the press the previous year, and with those of Secretary McNamara himself, but were so widely divergent — "pay increases of 110 per cent to 280 per cent" and the total increase in funds "from $6 billion to $17 billion" — as if to indicate that if implemented it would mean a $6300 *average raise* for every person in the military. Presumably it does not take into account any of the substantial savings from drastically reduced manpower turnover. If the figures did take such savings into account, they are even more outrageous, since the average pay raise implied in them would be higher still. It is useful for perspective to note that the median personal income for employed males in the United States is $5431 (1963 Census sample), much less than the average pay *raise* implied in the Pentagon scale figures.

The fears of a whitewash expressed by Rep. Curtis and other critics were fully realized in the Pentagon's statement. Extensive surveys and reams of "raw statistics" were alluded to, but not presented; one could not tell whether they really existed or not; and the all-important matter of just what prejudices and assumptions were programmed into the Pentagon's computers on this study along with those statistics was anything but clear. What was clear was that the Pentagon was going to placate only the most tepid draft critics. Yet, no sooner had it been unveiled than once again President Johnson attempted to head off the attackers by announcing a blue-ribbon Presidential "National Advisory Commission on Selective Service," another *deus ex machina,* or if you will, another *machina ex deo,* this time operated by Burke Marshall, former Assistant Attorney General.

WHILE THIS COMMISSION was given a supposed full mandate, true friends of draft reform must be forgiven for their skepticism. For one thing, the commission operated for only five months (until January 1, 1967), and Presidential commissions have a way of meeting only occasionally anyway, calling important and busy people to Washington for brief deliberations on the work that the commission staff has undertaken. While outside authorities were consulted, their opinions were weighed entirely in private, and the public has no way of knowing what was or was not going on. What's more, since most members of such commissions on complex issues — however well intentioned — are handicapped by their relative lack of familiarity with the operations of the governmental departments affected by their study, they tend to be overly deferential to the spokesmen for those departments. There is little likelihood, for example, that the Presidential commission on the draft seriously challenged the validity of the Department of Defense's manpower statistics, for most potential doubters would founder on their own lack of expertise, the commission's relative lack of resources, and the critically debilitating lack of time.

But perhaps the draft critics, at last, have caught on. When the commission was announced after the Johnson Pentagon study, Rep. Curtis was only the most vehement on his denunciation of the conveniently timed action. Said the *New York Times* editorially, "If Mr. Johnson thinks it desirable to call for a fresh study after finding the Pentagon's work disappointing, Congress appears justified in a study of its own. After all, it has no assurance that the next Presidential study will be any better than the last."[8] Democrats such as Senator Nelson of Wisconsin and Representatives Kastenmeier and Reuss, also of Wisconsin, and Republicans such as Wednesday Group members Morse of Massachusetts, Bell of California, and Reid of New York, as well as Rumsfeld

[8] *The New York Times,* July 5, 1966, p. 36.

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of Illinois, are demanding a disinterested investigation of the draft and its possible alternatives. Most believe a joint special committee of Congress, made up of members of Armed Services, Education and Labor, Appropriations, and other affected committees, should conduct the investigation in full view of the public and with ample resources and time to do the job properly.

It may be futile to expect anyone to live up to their mistakes, unless they are placed in a position where they cannot do otherwise, but the realization of this weakness should encourage the construction of institutions to avoid the temptation. The need is as close as your local draft board.

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Emigration as an Alternative to the Draft

JOE MICHAEL COBB

An iron despotism can impose no harder servitude upon the citizen, than to force him from his home and occupation, to wage offensive wars, undertaken to gratify the pride or passions of his master.

—The Hartford Convention, 1815[1]

THE PROBLEM OF LOYALTY and patriotism in modern society is one so surrounded with emotional tension that only two approaches to the subject are usually observed. In polite circles it may be unfashionable to discuss the subject at all: the assumption that everyone is adequately patriotic and loyal is almost universal, and insofar as one may rarely consider the question of his own ultimate loyalties, so one will not in general doubt his neighbor's feelings. The second approach to the problem of loyalty and patriotism may be regarded as gauche, but it is not unknown: whenever it is discovered that a person is openly unpatriotic or suspected of disloyalty, the feelings of fear and animosity dominate one's reactions. Since the rise of nationalism and the appearance in this century of the phenomenon of total war, there seems to be no middle ground for discussion of this question. The task of this article is to raise the question of loyalty in the context of emigration, and to discuss some of the factors surrounding a decision to reject the government of one's homeland and seek freedom abroad.

It may be an overstatement to characterize a decision to emigrate with the word oppression, especially in reference to a Western nation such as the United States, but oppression is not a quantifiable, aggregative concept, such as per capita income; nor is it a quality easily isolated and tested by sociologists and political scientists, such as the absence of habeas corpus or the secret ballot. Oppression is necessarily an individual assessment of social well-being. The increasing degree to which the subject of leaving the United States to avoid the draft is considered by young men, and the number of recent magazine and newspaper articles about those who

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[1] *The Proceedings of a Convention of Delegates* (Hartford, Conn., 1815), p. 11.

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have done so, tend to indicate that impressment is no more acceptable in the service of a democratic government than it was under the repressive, feudal regimes of Europe during the last century.

> Of all the demands made upon their subjects by European governments that of compulsory military service has been among the strongest influences causing emigration. . . . This enforced service in the army and navy has been among the causes giving to the United States immigrants from Russia, Germany, Denmark, Austria, and Italy.
>
> Conscription has been more of a factor in Germany, from which country thousands of young Germans have emigrated annually in order to avoid compulsory military service. Evidence of this is found in the official announcements of the penalty and punishment to which they have been sentenced. This has been particularly true since 1866, the right of emigration, which had been regarded as a fundamental one, being limited in that year by the restriction that it could not be permitted by emigration to avoid this duty. It was this compulsory service in the army and navy that caused many young men to whom passports were refused to emigrate across the frontiers. In Austria the law rendering every able-bodied man liable to military duty prompted not a few young men to leave the country before they reached the age of twenty.[2]

It is evident from discussions of the subject with that one per cent of Americans who are currently serving involuntarily, or who face induction within the next few years, that compulsory military service is regarded widely as a bitter imposition on their lives.[3]

It is not germane here to analyze whether we, in some detached overview, consider military service a burden or a privilege. It is clearly not a sought-after employment; if it were, there would be no need for conscription. Yet it may be unpleasant without being oppressive, if the draftee is resigned to it and regards it as his duty. The majority of adult, male Americans who have served — especially those who fought the three wars — regard a term of military service as *the expected thing* for any young man to do, as it was indeed for them. It does not seem possible for resisters to organize any effective movement against conscription in the face of this monolithic attitude towards the military; those who try are scorned, those who are inducted soon learn that any attitude other than docile cooperation can be perilous. The concern in this article is with the obstacles placed in the path of that minority who would rather emigrate than perform military service, by a government determined to shore up an anti-liberal institution with illiberal restrictions on a basic freedom.

The rationale for military impressment is cogently stated in the words of Mr. Chief Justice White, in the decision upholding the constitutionality of the World War I draft:

> It may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it.[4]

The argument is that of the social contract — those who desire the benefits of a free society must bear the costs of those benefits: everyone pays taxes, everyone refrains from violence, everyone serves two years in the army. Oddly, it is *not* the case that the *contrapositive* argument is accepted by the government. On the basis of the social contract rationale, a citizen who is willing to forego the privileges of living in the United States should be allowed to emi-

[2] F. J. Varne, *The Immigrant Invasion* (New York: Dodd, Meade and Co., 1913), pp. 43-44.

[3] Cf. "Evading the Draft: Who, How and Why," *Life Magazine*, Dec. 9, 1966, pp. 40-43.

[4] Selective Draft Law Cases, 245 U.S. 366, 378 (1917). The Court cites Vattel, *Law of Nations*, Book III, chaps. i and ii. In addition the Government argued: "Compulsory military service is not contrary to the spirit of democratic institutions, for the Constitution implies equitable distribution of the burdens no less than the privileges of citizenship." 245 U.S. 366, 368.

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grate without any further obligations to the United States. That person would have entered into a new social contract, with his chosen country, to pay its taxes, obey its laws, and serve in its army instead. The government of the United States, however, does not permit the nullification of military obligations by emigration.

Although the United States maintains no general barriers to emigration, it is significant that the Selective Service System has in the past operated to deny the right of emigration, and currently maintains regulations which cast doubt upon the legal status of draft-liable emigrants. Only extreme tyrannies impose repressive general laws. The modern state — "absolute, minute, regular, provident, and mild" — imposes piecemeal restrictions, upon only small minorities at one time: a practice guaranteed to maintain a general opinion of support and loyalty. Yet if oppression is piecemeal, one must examine in each case whether a restriction on emigration exists, because a general freedom of exit is fraudulent if those groups who might seek to claim it are expressly kept in.

IT IS NOT COMMONLY realized that the United States imposes any restrictions upon exit. The actual statutes passed by Congress do not explicitly forbid emigration by men of draft age, and it is usually only Acts of Congress which we consider relevant. Under Title I, Subsection 10(b)(1), of the Universal Military Training and Service Act, however, "The President is authorized to prescribe the necessary rules and regulations to carry out the provisions of this title."[5] The regulations so promulgated stitch together a binding network of law with which, entirely on its own initiative it seems, the Executive branch of government has denied young men of draft age a significant human right.[6] A detailed examination of the regulations is necessary to make this denial clear. In an attempt to make the avoidance of military service as difficult as possible, the Selective Service regulations provide:

> When it becomes the duty of a registrant or other person to perform an act or furnish information to a local board or other office or agency of the Selective Service System, the duty or obligation shall be a continuing duty or obligation from day to day and the failure to properly perform the act or the supplying of incorrect or false information shall in no way operate as a waiver of that continuing duty.[7]

It is by virtue of this declaration by the Executive of a perpetual duty, without any provision of machinery or conditions under which it may be cancelled, that all citizens and resident aliens of the United States between ages eighteen and twenty-six are legally obligated to perform military service — expatriation or emigration notwithstanding. The details and severity of this regulation will be made clear in the course of this article.

One further regulation of the Selective Service System bears upon the question of emigration in a direct way. It is important to note the wording of the single condition imposed upon the issuing agencies:

> The Director of Selective Service, the State Director of Selective Service, or the local board may issue to a registrant a permit to depart from the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands,

[5] 62 Stat. 619.

[6] Cf. *Universal Declaration of Human Rights* (New York: United Nations, 1948), Articles 13 and 15.

[7] *Code of Federal Regulations*, Title 32, chap. xvi, sec. 1642.2. In Fogel v. United States, 162 F.2d 54 (1947), the court upheld a conviction over appellant's argument that the statute of limitations applied. Mr. Justice Sibley, dissenting, wrote: "The theory of the conviction is that by doing nothing he renewed his crime every day to the date of the trial; which amounts to saying there is no statute of limitations for this offense. This seems to me not to be in accord with authority, when the thing which is made a crime is the failure to perform a continuing duty, when nothing at all happens after the crime became complete." *Ibid.*, p. 56. See note 21 below.

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Guam, or the Canal Zone to any place which is not within any of those areas *whenever the registrant's absence is not likely to interfere with the performance of his obligations* under the Universal Military Training and Service Act, as amended. Such permit shall be issued by completion of a Permit for Registrant to Depart from the United States (SSS Form No. 300).[8]

One might argue that emigration cancels all such obligations, and therefore the issuance of the permit would not "interfere" with their performance; but it is clear on the basis of its past actions that the Selective Service System does not hold such a position. At the present time, a permit is not actually required for exit, but the Selective Service System has indicated that this permit is the only insurance one would have against being declared delinquent and prosecuted. That the Selective Service authorities regard this discretionary power over travel with satisfaction, and are willing to use it, can be inferred from a close reading of the following quotation from the eighteen volume official history of Selective Service during World War II, discussing emigrant aliens (who could presumably use foreign passports to leave the United States with greater ease than citizens):

Finally, alien registrants who had departed from the United States and were no longer residing here were classified IV-C. Such classification was authorized as a practical solution to an awkward situation. There was some doubt and difference of opinion as to the extent of the liability under the Selective Service law for an alien who had departed from the United States.

As a practical matter, however, the System had no means of enforcing the orders of a local board upon an alien outside of the country. On the other hand, the board had to continue processing and reprocessing such cases, to report them to the United States attorney as delinquents and to make other futile motions of this nature. Consequently, a procedure was adopted whereby such registrants were placed in a class not available for service. Under the revised regulations if an alien so classified returned to the United States, he was subject to prosecution for any penalties he had incurred before departing and any subsequent obligations which had occurred for him under the act.

On the whole, this solution was in the best interests of Selective Service. Aliens liable for training and service could not leave the country without the consent of their local boards. The Immigration and Naturalization Service of the Department of Justice cooperated wholeheartedly in this regard. Thus, the control of the System over the departure of aliens and its inability to enforce orders, after the alien had departed, appeared to justify the adoption of the IV-C classification procedure.[9]

Here is an excellent example of bureaucratic thoroughness. In spite of "some doubt and difference of opinion as to the extent of the liability . . . for an alien who had departed from the United States," rather than remove such emigrant alien from the rolls as no longer liable for military service to the United States, the Selective Service authorities decided to keep his dossier for possible use against him if he should ever return, perhaps to visit friends or on vacation. On the other hand, if the person should attempt to obtain permission from the government before departing, the police powers of the Department of Justice would be there to intervene.

ALTHOUGH INVOLVING other factors as well, the treatment of Japanese Americans during the Second World War provides an interesting study of one group of people obviously subject to oppression who were denied the chance to emigrate by Selective Service, and subsequently ordered to report for induction. Again from the official history,

[8] *Code of Federal Regulations*, Title 32, chap. xvi, sec. 1621.16. Emphasis supplied.

[9] U. S. Selective System, *Problems of Selective Service; Special Monograph No. 16* (Washington: Government Printing Office, 1952), Vol I, *Text*, pp. 117, 120.

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the Selective Service authorities obliquely admit this denial of the right of emigration:

> The alien problem was one of the first to demonstrate the effectiveness of coordination between local boards and their State Headquarters. On the west coast large numbers of Japanese registrants began asking permission from their local boards to leave the United States. This was a new and troublesome situation and the boards turned to State Headquarters for advice. The pattern was uniform enough from board to board that the State Directors of this part of the country felt the problem must be met directly and promptly. They therefore held meetings with the Japanese leaders of the Pacific Coast States who indicated their disapproval of such action by Japanese registrants. The State Headquarters concerned then recommended that the boards disapprove the requests.[10]

The decision of the individual concerning his loyalties and attitudes toward various duties was never considered relevant; a group policy was formulated with Procrustean disdain. "Thus, it was that the initial contact of Selective Service with many Japanese American and Negro registrants was not with men who lacked patriotism, but with those who to a considerable extent were just not 'sold' on the war."[11]

Prior to Pearl Harbor, Japanese Americans were drafted like other ordinary citizens, but from February 1942 they were considered by the War Department as generally unacceptable for service.[12] In January 1944, the Selective Service System altered its policies, however, pursuant to a War Department decision of the preceding November. The new approach was to screen every eligible registrant, and to induct those found acceptable.[13]

> The reintroduction of Selective Service for Japanese Americans in January 1944 came without advance notice and apparently as a rather complete surprise to many residents of War Relocation Authority Centers. Almost immediately, the number of requests for repatriation or expatriation showed a marked increase. . . . This was done not only by men disloyal to the United States, but also by those whose interest was solely draft dodging. Some of the latter could not even speak the Japanese language and had no relatives, property or other apparent interest in Japan.
>
> In a War Department memorandum, dated March 30, 1944, it was stated that requests for repatriation or expatriation to Japan made by Japanese American citizens who were liable for military service would be considered an effort to evade such duty if filed after January 21, 1944, or when the registrant's induction was imminent.[14]

It is clear that the government maintained an exceedingly hostile attitude toward those who sought to emigrate as a means of cancelling military obligations.

In general, Japanese Americans who made strong enough statements of disloyalty during their individual screenings by Selective Service after January 1944 would have been found unacceptable to the military authorities, thereby avoiding the draft without actually being expatriated. By its own admission, however, the Selective Service System was so inefficient and uncoordinated with the War Department that many clearly disloyal registrants were still classified as acceptable even months after a change in their status or opinions.[15] When these registrants were occasionally ordered to report for induction, which they refused to do, the courts consistently upheld the authority of the government to deny the right of emigration, to detain the individual, and to order him into the Army if he should be classified as acceptable. In the case of Hideichi Takeguma et al., defendants were con-

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[10] *Ibid.*, pp. 222-23.

[11] U. S. Selective Service System, *Special Groups; Special Monograph No. 10* (Washington: Government Printing Office, 1953), Vol. I, *Text*, p. 67.

[12] *Ibid.*, p. 117.

[13] *Ibid.*, pp. 123-24.

[14] *Ibid.*, pp. 128-29.

[15] *Ibid.*, pp. 127, 136.

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victed of failing to report for induction even though the government had granted their requests for expatriation, while detaining them in fact for the duration of the war. The court held:

> It remains to be considered whether or not the granted expatriation request by the other two appellants, together with the order of exclusion and segregation, are so inconsistent with the order to report for induction as to void the latter order. . . . If, as these two appellants claim, this completed act of expatriation transformed them from United States citizens into subjects of Japan, hence alien enemies, appellants have not gained their goal for the reason that alien enemies who are acceptable to the military authorities (and these appellants were) still may serve in the land and naval forces of the United States.[16]

The injustice of this practice was remarked by one District Court Judge, who acquitted other defendants on different grounds:[17]

> It is shocking to the conscience that an American citizen be confined on the ground of disloyalty, and then, while so under duress and restraint, be compelled to serve in the armed forces, or be prosecuted for not yielding to such compulsion.[18]

This case, *Kuwabara v. United States*, is mentioned here only because it stands in such contrast to the general attitude of the courts, and the Selective Service System, towards the role of citizens in respect to the state. The right of emigration and the social contract rationale for duties to the state both imply a liberal, individualistic orientation: an individual may not transgress the laws of society, but the decision to obey or to emigrate is his own; his loyalty is something he extends to the state, not something the state can demand by reason of an accident of birth.

DURING THE PAST DECADE the Supreme Court has acted to restore to American citizens many rights of foreign travel which formerly had been infringed by the Passport Division of the Department of State, and by Congress.[19] Mr. Justice Douglas, delivering the opinion of the Court in *Kent v. Dulles*, wrote:

> The right to travel is a part of the "liberty" of which the citizen cannot be deprived without due process of law under the Fifth Amendment. So much is conceded by the Solicitor General. In Anglo-Saxon law that right was emerging at least as early as the Magna Charta. . . . Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. . . . Freedom of movement is basic in our scheme of values.[20]

With language this strong, one might speculate that the Supreme Court would guarantee a draft-liable individual the right to emigrate, but the Supreme Court has not yet addressed itself specifically to these questions.[21] Given the

[16] Hideichi Takeguma v. United States, 156 F.2d 437, 440 (1945).

[17] Defendents were in fact incarcerated by the internment center authorities and denied the opportunity either to obey or disobey the order to report for pre-induction physical examinations.

[18] Kuwabara v. United States, 56 F. Supp. 716, 719 (1944).

[19] E.g., Kent v. Dulles, 357 U.S. 116 (1957); Aptheker v. Secretary of State, 378 U.S. 500 (1963); and United States v. Laub, 385 U.S. 475 (1967).

[20] 357 U.S. 116, 125-26.

[21] There is no decided Supreme Court case concerning the application of the statute of limitations vs. the continuing duty concept. The lower courts in general follow Fogel v. United States, 162 F.2d 54 (1947), but two recent cases, Graves v. United States, 252 F.2d 878 (1958), and Venus v. United States, 266 F.2d 836 (1959), both in the Ninth Circuit, show a marked hesitancy to follow the continuing duty theory of Fogel. If the precedent of Fogel is overturned by the Supreme Court when an emigration case is finally decided—as authority would suggest; cf. United States v. Irvine, 98 U.S. 450 (1879), Prendergast v. United States, 317 U.S. 412 (1943), and Fiswick v. United States, 329 U.S. 211 (1946) —emigration as a practical method of nullifying Selective Service obligations after five years would be established, provided the statute of limitations applied to the particular case. The *right* of emigration as a cancellation of Selective Service obligations, however, will not be

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emotional atmosphere surrounding the issue of compulsory military service — and resistance to it — and considering that the courts have never been very receptive to the pleas of citizens against the Selective Service laws,[22] the question is moot. This writer was unable to locate any decisions relating directly to the question of emigration per se, and by the nature of the crime, there are no decisions involving those who fled and have not been brought to court by reason of their permanent residence abroad. Apparently extradition for draft evasion has not been widely used, although several recent indictments may yet alter that; we may soon see more vigorous prosecution of dissenters. Unfortunately for our purposes here, the willingness of the Selective Service System to allow delinquents to avoid criminal prosecution by reporting for immediate induction has probably very much reduced the chances of these points of law being considered by the courts.

The ease with which a person may leave the United States, especially the ease with which Americans can enter Canada or Mexico, is well known. The point of this discussion has not been to assert that a person would be physically prevented from departing if he were liable for conscription. Enforcement is not adequate to check all tourists passing into Canada and Mexico in order to apprehend draft evaders. Our concern, however, is with the absence of any lawful means of cancelling the military obligation through emigration, and the continuing liability and threat of apprehension and prosecution to a draft-liable individual who chooses to emigrate rather than serve. To a classical liberal, the accident of being born in Detroit rather than Windsor, or Seattle rather than Vancouver, for example, ought to have no bearing upon the freedom of that person to renounce loyalty to the United States and seek Canadian citizenship, and to enjoy all privileges thereof — *including the treaty rights of traveling and carrying on business in the United States.* Under present law, the accident of birth is all-important: the government does not regard citizenship as an accident.

The anti-liberal attitude of the United States government may be merely a reflection of the prevailing majority opinion — that if a man will not loyally serve the country of his birth, he ought to be permanently exiled or imprisoned; but this is hardly an attitude conducive to or compatible with other widely held beliefs in the United States, such as freedom of opinion and speech, the right to travel, etc. It is not the case that a person who emigrates from the United States forfeits all liberty and rights enjoyed by American citizens, for Britons, Canadians, Australians, and many other nations share the liberal heritage with citizens of this country. Americans would be very disturbed if France, for example, were accustomed to detain and conscript United States citizens of French ancestry vacationing in Paris, even if only first-generation immigrants were so liable. The United States government, on the other hand, actively engages in the harassment of expatriates who emigrated in order to avoid military service. The administrative regulations of the Department of State, for example, provide:

> *Aliens ineligible to citizenship or who departed to avoid service in the Armed Forces.* An alien shall be refused a nonimmigrant visa under the provisions of section 212(a)(22) of the [Immigration and Nationality Act, as amended] if, having other than nonimmigrant status, he departed from or remained outside of the United States on or after Sep-

established merely by overturning Fogel, because the concept of social contract cancellation through emigration implies an immediate termination of duties, not just an acquisition of immunity from prosecution after five years. There is further the problem that the Government might successfully argue to the Supreme Court that the statute of limitations *is suspended* during the period of the emigrant's residence abroad, under the provisions against "fugitives from justice." 18 U.S.C.A. 317.

[22] Cf. United States v. Cornell, 36 F. Supp. 81 (1940); United States v. Garst, 39 F. Supp. 367 (1941); United States v. Herling, 120 F.2d 236 (1941), affirming United States v. Rappaport *et al.*, 36 F. Supp. 915 (1940).

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tember 8, 1939 to avoid or evade training or service in the United States Armed Forces.[23]

The purpose of a regulation such as the above can only be to place as large a penalty as possible upon foreign nationals, unfortunate enough to have been born in the United States or to have lived here, who did not make the decision to emigrate until after age eighteen, when it was too late to escape the military obligation lawfully (since the requirement to register and serve commences on that date). In terms of practical enforcement, though, it would seem that Canadians would be less likely to be affected by this hostile attitude because of a loophole arising from cordial United States-Canadian relations:

> The provisions of section 212(a)(26) of the [Immigration and Nationality Act, as amended] relating to the requirements of valid passports and visas for nonimmigrants are waived by the Secretary of State and the Attorney General, acting jointly, in pursuance of the authority contained in section 212(d)(4) of the Act under the conditions specified for the following classes:
>
> (a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda.* A visa shall not in any case be required of a Canadian national, and a passport shall not be required of such a national except after a visit outside of the Western Hemisphere. . . .[24]

Although the probabilities of arrest are smaller for those draft evaders who might become Canadian citizens, the permanent danger of imprisonment still represents a serious threat to all former Americans, especially if the Attorney General were to become more concerned with emigre draft dodgers and were to have such persons placed under surveillance. It is already the case that some draft-liable emigrants to Canada have been arrested at the border upon returning to the United States to visit friends or conduct business.

ALTHOUGH THE PRESENT Selective Service regulations made pursuant to the Universal Military Training and Service Act deny the social contract premise which defends the Act, there are marginal circumstances by which many people desiring to emigrate would be able to avoid the trap which closes on one's eighteenth birthday. Once a person (whether citizen or alien) has registered with the Selective Service System, his only recourse if he wishes to emigrate is either to violate the law and risk imprisonment, or to fulfill the required term of service beforehand. Even aliens who wish to return to their own countries are no less subject to this unfortunate dilemma than citizens victim of an "accident of birth." Aliens do, however, have more flexibility with regards the registration requirement, if they know the construction of the regulations.

Certain categories of aliens who can claim a permanent foreign residence can qualify for the status of "non-residents," and not be required to register. The most likely persons to avoid the military dilemma in this way are students, who as non-residents would not have to register for Selective Service and not be faced with the age-extending problem of the II-S classification. These persons would be expected to leave the United States upon completion of their studies, but would not be barred from returning to or later seeking citizenship in the United States. For a person with dual citizenship — discussed below — it would be necessary to emigrate to his other homeland prior to the age of eighteen, and then apply for a non-resident student visa for college in the United States.

Aliens not qualifying for a non-resident student visa would be required to register with the Selective Service Sys-

[23] *Code of Federal Regulations*, Title 22, chap. i, sec. 41.91 (a) (22). Italics in the original. The restriction is broadened by the Act itself to include immigrant visas also. 66 Stat. 184.

[24] *Code of Federal Regulations*, Title 22, chap. i, sec. 41.6 Italics in the original.

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tem at age eighteen or within ninety days after entering the United States. The regulations give aliens the option of declaring themselves resident or non-resident, the former being subject to conscription immediately and the latter being allowed one year to finish their business and depart or be registered as resident aliens. Because of the diplomatic problems involved in drafting aliens, however, the government has provided SSS Form No. 130, which allows resident aliens to declare that they do not wish to perform military service, and that they accordingly foreswear the opportunity ever to obtain American citizenship. The execution of this form is irreversible — even if the person decided later to serve in the military, he could never obtain American citizenship; and if he subsequently departed from the United States, he might be denied re-entry under the State Department regulations quoted above, unless he could utilize the Canadian loophole. The existence of the possibility of obtaining such an exempt alien classification, Class IV-C, merely by renouncing future United States citizenship would suggest interesting possibilities for dual citizens and pre-eighteen emigrants; but the liberal ideal is far from being realized when ordinary citizens cannot escape impressment similarly.[25]

The most interesting category of aliens involves those born with both United States citizenship and some other citizenship. Such persons are typically those born abroad of United States parentage, or born in the United States of foreign parents. Such dual citizens usually must choose between their two "homelands" before age twenty-five, at which time the choice is deemed to have been made for them by virtue of residence. For purposes of qualifying under Selective Service in some non-liable category, the choice for non-United States citizenship would have to be made prior to the eighteenth birthday; but since the person would still be a minor, this would have the beneficial effect of not damaging the possibility of a change of heart later — whereupon the person could regain full, natural-born American citizenship. To avoid as much as possible the appearance of one's name on government lists, the correct procedure of choosing non-United States citizenship involves obtaining documents from the foreign government, passport, health certificate, drivers license, etc., establishing that citizenship, rather than executing any renunciation of United States citizenship because the latter is automatically terminated when foreign citizenship is obtained. To escape Selective Service, it is only necessary to successfully terminate United States citizenship prior to age eighteen, and, if returning to the United States, then to execute SSS Form No. 130 and obtain a IV-C exempt alien classification.

Because of the many anti-liberal aspects involved in being a citizen of some particular country — passport restrictions, draft liabilities, taxation, and property penalties — it would seem desirable from the standpoint of a classical liberal to allow the individual himself to make the choice of citizenship (natural-born if possible, because naturalized citizens are restricted in many countries in minor ways, as in holding public office or residing abroad for long periods) rather than leaving this highly significant choice up to an accident of birth. For these reasons, it would not be surprising if in the future a large number of Americans were to spend a summer or a year in Canada, coinciding with the birth of a child (the timing of birth could be accurately controlled within a month's vacation period by birth control measures), especially if conscrip-

[25] The person who might obtain a IV-C classification by executing SSS Form No. 130 must be distinguished from those emigrants fortunate enough to have obtained a IV-C classification from their local boards under *C.F.R.*, Title 32, chap, xvi, sec. 1622.42(c), which provides: "In Class IV-C shall be placed any registrant who is an alien and who has departed from the United States. Such alien shall be placed in Class IV-C even though he is a delinquent but this classification shall in no way relieve him from liability for prosecution for violation of the selective service law. If any registrant so classified under the paragraph returns to the United States, his classification shall be reopened and he shall be classified anew." See also the quotation cited in note 9 above.

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tion is not soon abolished in the United States. Such children could be reared and attend school in the United States, and by qualifying for a non-resident visa even obtain a college degree in this country. Once such children had passed military age (twenty-sixth birthday) they would still be free to return permanently and, if they desired, take out United States citizenship.

THE ONLY LAWFUL WAY in which a United States citizen can avoid military service through emigration is to depart from the country before age eighteen and renounce his citizenship once abroad. Legally, it would be absolutely necessary to renounce United States citizenship, since all citizens, whether at home or abroad, must register at age eighteen — and the goal is not to register. Such a person would become in effect a stateless person for the period of time required for naturalization in his new homeland, and would not qualify for a passport during this period (though limited foreign travel would be possible with documents of identification obtainable from most governments). Persons planning to maximize their freedom and violate the law if necessary in the short run, provided likelihood of arrest is minimal, would probably be able to cut the period of time as a stateless person to two years (under current United States passport regulations) simply by acquiring a new passport immediately before departing and not renouncing citizenship at all, but waiting for it to become forfeit when they acquire their new citizenship after five years (Canada or United Kingdom). This same tactic could be used without violating the law by emigrating prior to age fifteen.

In all of the above examples, the cooperation of the individual's parents would be absolutely necessary, inasmuch as the person must be a minor to emigrate and avoid military service thereby. In the extreme case, the parents would accompany the child to his adopted country. It might not be unreasonable to expect a family of Quaker or pacifist convictions to take this step with the fate of their minor children in mind, although most parents would consider the suggestion absurd. A more likely case might be the sending of children abroad for school or college with the knowledge that they would initiate foreign naturalization proceedings as soon as possible. Except for Canadian schools, this would mean not seeing one's children for some time unless the parents themselves went abroad on vacation. If the realization of the full impact of conscription did not occur to the individual until the age of seventeen, even then it would not be too late to decide upon a Canadian or British university, and parents might be much more receptive to that suggestion than to any other. The prestige of study abroad might outweigh any objections they would have to the suggestions of emigration and renunciation of citizenship. The laws of citizenship and nationality are intricate, and it is unlikely that a teenage boy would have the knowledge or sophistication to research the problems adequately. For this reason, the above cases are purely hypothetical; but for purposes of this article, it is useful to set forth the full picture of Selective Service and emigration law, loopholes included. If the fact that United States military obligations commence at age eighteen — and not at birth — were more widely known, it seems likely that fewer draft resisters would attempt conscientious objection status, which requires two years of menial alternative service as objectionable on libertarian grounds as military service, or fall afoul of the law when finally fleeing the United States to avoid impressment. It seems intellectually more honest to confront one's attitudes toward military service and loyalty to a government which compels it, and to reject the government outright through emigration, rather than to attempt to evade the law — in effect taking the benefits of a country without paying the costs. Most individuals, however, are caught in the Selective Service trap simply because they innocently register at age eighteen without realizing that they could have taken other options.

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The decision to renounce United States citizenship is one that few Americans would ever make. Certain metaphysical characteristics attach to the citizenship of one's native land that tip the scales heavily against giving it up, although one might live abroad for many years. Even in this cosmopolitan age, we see Britons and expatriate Americans living in every major city of the world, with no diminution of loyalty and attachment to their homes. Our purpose in this article has been to discuss the surprising denial of freedom to an oppressed minority who might want to escape through emigration; a minority which does not share the loyalty of most. In the nineteenth century, America welcomed with open arms the Germans and Eastern Europeans who fled military service and burdensome taxation in their homelands. Now that America itself has shouldered the double burden of world empire and domestic *dirigisme* we ought to be less hostile and intolerant towards those among us who still remember the old American dream and want to follow it to whatever land it has now gone.

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Anti-Militarism and Laissez Faire

JAMES POWELL

IN THE NAME OF a pragmatic national defense, the United States since World War II has reversed its traditional presumptions against conscription. In part, of course, this reversal, and the popular acceptance of conscription as a regular feature of American life, has been a product of the major wars with which this country has been involved; peacetime conscription has been heralded from 1945 on as a way of preventing another war. That there is much support, however, for conscription as an instrument of social reform — national service — indicates that conscription is not strictly a military phenomenon, but is a consequence of the general presumptions for state-oriented over citizen-centered policy, which have guided social reform for many decades.

The state-oriented presumption in the case of conscription has been the doctrine of "service obligation." According to this doctrine, the government defines certain occupations as fulfilling the "national interest," and is empowered to compel people to follow such occupations. Finally, the government claims that the whole process is an uplifting experience. Thus, Lt. General William Knudsen testified before the House Committee on Military Affairs: "So I can tell you from my own experience that a period of one year in the service of the State or of the Government will have a tendency to make men more democratic. They will all be together. They will learn each other's ways and learn to look upon the Nation as a whole. They will be more patriotic when they get through with their service, and they will never forget the time that they had working for their country."[1] General Eisenhower has stated his ideals of military service many times, as in this case:

> If UMT accomplished nothing more than to produce cleanliness and decent grooming, it might be worth the price tag — and I am not altogether jesting when I say this. To me a sloppy appearance has always indicated sloppy habits of mind.
>
> But above and beyond these advantages of UMT is the matter of attitude toward country. If a UMT system were to become a fixture of our national life, I think that resentment against military obligation would die away, that virtually every young man would take pride and satisfaction in giving a year of his life to the United States of America. After all, the good instincts lie near the surface of the young. Patriotism, a sense of duty, a feeling of obligation to country are still there. They

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[1] Statement of Lt. Gen. William S. Knudsen, House Committee on Military Affairs, Nov. 27, 1945.

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are the noblest and the most necessary qualities of any democratic system, and I am convinced that UMT would help call them to the surface once more.[2]

Or consider General Hershey's assessment of the creative potential of the threat of military service: "You are trying to use the deferment on the one hand as the carrot and the induction as the whip if you want to call it that, to keep the person channeled into scientific schools, into engineering schools, into medical schools. . . . The practice is going to be that the rare bird, if you want to call him that, is so useful that we keep the threat of service over him in order to keep him useful."[3] The idealization of compulsion which is implicit in conscription marks it as a paradigm of state-oriented policy.

However sincerely people might believe in the idea of service obligation, it is opposed to the values of a citizen-centered social order which relies upon voluntary social cooperation. That the idea of service obligation masks a policy which, however widely accepted today, is nonetheless just another kind of state-worship, is illustrated well by the following:

> The Army trained men for unconditional responsibility at a time when this quality had grown rare and evasion of it was becoming more and more the order of the day. . . . it trained men in personal courage in an age when cowardice threatened to become a raging disease. . . .
>
> The Army trained men in resolution while elsewhere in life indecision and doubt were beginning to determine the actions of men.
>
> The Army trained men in idealism and devotion to the fatherland and its greatness while everywhere else greed and materialism had spread abroad.
>
> The young man who practiced obedience during this time could then learn to command. By his very step you could recognize the soldier who had done his service.[4]

The similarity between Hitler's statement and much Congressional testimony, for instance, should appear as no accident, but as an indication of how far state-oriented ideas have been implanted in American thought. In some situations the requirements for national defense might include conscription, but recognition that such unusual situations might occur is not at all equivalent to the general belief that conscription is a good thing.

THERE ARE PROBABLY three elements of the general belief in conscription, or the doctrine of service obligation. First, conscription sanctions Executive prerogative. National defense requires professional expertise of the sort possessed by administrators, not legislators; and the presumption is that whatever aspect of defense policy receives the endorsement of the Executive agencies should be enacted substantially as proposed, particularly in a time of crisis. Each time the draft law has expired, since 1951, there have been perfunctory hearings, and the Congressional committees have reported, and Congress has voted, to extend the draft virtually unmodified. Congress has functioned more to enact than to deliberate upon the recommendations of the Executive. Or, as Garet Garrett described the government of an empire: "The word *executive* came to have its new connotation. For all the years before when you spoke of the executive power of government you meant only the power to execute and administer the laws. Henceforth it would mean the *power to govern.*"[5] Conscription has illustrated the chief aspect of Executive government — the tendency of the Executive both to gather administrative knowledge and to formulate policy.

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[2] D. D. Eisenhower, "This Country Needs Universal Military Training," *Reader's Digest*, Sept. 1966, p. 55.

[3] Statement of Lt. Gen. Lewis B. Hershey, Director, Selective Service, Senate Committee on Armed Services, March 5, 1959.

[4] A. Hitler, *Mein Kampf* (Boston: Houghton Mifflin, 1943), pp. 280-81.

[5] G. Garrett, *The People's Pottage* (Caldwell, Idaho: Caxton, 1965), p. 130.

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Second, arguments for conscription have invariably involved the assumption that voluntary incentives would never attract sufficient military manpower. The Marshall Commission, for instance, innocently reported that "a draft law has been necessary precisely because there have not been enough volunteers to meet military manpower needs."[6] Similarly, General Mark Clark, Chairman of the Civilian Advisory Panel, testified before the Senate Armed Services Committee that "a draft law will be required for national security purposes for the indefinite future."[7] There is no suggestion in the Marshall Commission Report, or in any other testimony on the draft, that incentives affect the number of people who enlist. Nor is there any suggestion that in certain circumstances the draft could — and *should* — end altogether; a regular feature of testimony on the draft is the supposition that we must rely, indefinitely, on compulsion to sustain our national defense.

Third, conscription has survived at least in part because of the belief that military service exacted through compulsion is more noble and patriotic than those careers people voluntarily pursue. By and large this has been the moral position which the American Legion has always represented to Congress, as in 1963: "Our nation should never be without an obligation for every youth to serve his country in a military capacity and a system for their selection so to serve."[8] Conscription is moral because it is service to the *state*. This idea, of course, is the first principle of any authoritarian regime, and justifies the ultimate subversion of all civil liberties.

Fortified by the idea of service obligation, lobbyists for conscription seldom have argued that their conclusions are the results of empirical investigation. Certainly no one has testified before Congress to indicate what sorts of evidence would certify those claims as humbug. Does Selective Service intend merely to acquire temporary possession of a specified quantity of people? Is the goal to encourage career enlistments? Or to allocate manpower most effectively? Or to follow those policies most consistent with personal freedom? One consequence of *not* stating the claims of Selective Service in such a way that the empirical implications are clear, has been to avoid the implication that in certain circumstances Selective Service should end altogether.

Many people have argued that conscription is most objectionable as an aspect of militarism, but the state-oriented ideas which justify conscription apply to non-military policies as well. Last May, Secretary of Defense McNamara offered his well-publicized proposal for universal two-year "service to country."[9] Shortly after McNamara's speech, Senator Javits joined the crusade: "Secretary McNamara's proposal was aimed at 'voluntary' service by both men and women. It is my feeling that it would be almost impossible to make such a concept work as a practical matter. I propose that universal national service be made compulsory for young men, giving them the option of selecting what form it should take within permissable categories established by the government."[10] President Johnson evidently lent his implicit support to the universal "voluntary" service idea: "The call for public service therefore cannot be met by professionals alone. We must revive the ancient ideal of citizen soldiers who answer their nation's call in time of peril. We need them on battlefronts where no guns are heard but freedom is no less tested."[11] Again: "We must move toward a standard that

[6] National Advisory Commission on Selective Service, *Report*, 1967, p. 12.

[7] Statement of Gen. Mark W. Clark, Chairman of the Civilian Advisory Panel on Military Manpower Procurement, Senate Committee on Armed Services, April 12, 1967.

[8] Statement of William C. Doyle, Chairman, National Security Commission, American Legion, Senate Committee on Armed Services, March 12, 1963.

[9] R. S. McNamara, "Address before American Society of Newspaper Editors, Montreal, Canada," Office of Assistant Secretary of Defense (Public Affairs), May 18, 1966.

[10] J. K. Javits, "Administration Should Support National Service Concept," Office of Jacob K. Javits, May 22, 1966.

[11] *The New York Times*, May 12, 1966, p. 14.

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no man has truly lived who only served himself. . . . To move in this direction, I am asking every member of my Administration to explore new ways by which our young people can serve their fellow men."[12] Secretary of Labor Wirtz expressed his belief in universal service, last November,[13] and more recently Sargent Shriver indicated that universal service should begin at the age of sixteen.[14] The popularity of the universal service idea shows how slender is the protection to civil liberties offered by civilian supremacy over the military; both civilian and military regimes have acted in blatant disregard of civil liberties, and universal service merely extends to civilian experience some of the features of state-oriented, military life.

INDEED, THE GROWTH, if it should occur, of non-military, but authoritarian, labor conscription would be the result of the confluence of socialist and pacifist ideas. These ideas have worked not to mitigate the assaults upon civil liberties which conscription entails, but to deflect the assaults from military to non-military pursuits; socialism has preserved the state-oriented—compulsory—aspect of service to a civilian rather than a military state. One of the most influential statements in the history of American pacifism, William James' "Moral Equivalent of War," illustrates this kind of socialist-pacifism clearly:

> If now — and this is my idea — there were, instead of military conscription a conscription of the whole youthful population to form for a certain number of years a part of the army enlisted against *Nature*, the injustice would tend to be evened out, and numerous other goods to the commonwealth would follow. The military ideals of hardihood and discipline would be wrought into the growing fibre of the people; no one would remain blind as the luxurious classes now are blind, to man's real relations to the globe he lives on, and to the permanently sour and hard foundations of his higher life. To coal and iron mines, to freight trains, to fishing fleets in December, to dishwashing, clothes-washing, and window-washing, to road-building and tunnel-making, to foundries and stoke-holes, and to the frames of skyscrapers, would our gilded youths be drafted off, according to their choice, to get the childishness knocked out of them, and to come back into society with healthier sympathies and soberer ideas. They would have paid their blood-tax, done their part in the immemorial human warfare against nature, they would tread the earth more proudly, the women would value them more highly, they would be better fathers and teachers of the following generation.[15]

Many pacifists have accepted James' idea of national service, and have indicated thereby that however extensively war has figured in the suppression of civil liberties, pacifism as such does not provide a basis for defending civil liberties. In fact, those pacifists who favor compulsory national service as a way of avoiding wartime service promote both the suppression of civil liberties and war against individuals. The suppression of civil liberties is clear enough; war against individuals occurs through the attempts to enforce compliance with national service regulations. When human relations are voluntary, non-compliance with a contract eventually results in termination of the contract; the most effective way to enforce mutual exchange is simply to deny a non-compliant party the benefits of mutual exchange. When, however, a contract is compulsory, enforcement by termination of contract obviously cannot occur; instead, government must administer punishments to enforce compliance. Moreover, such punishments conceivably could occur indefinitely, for non-compli-

[12] "Remarks of the President at Montgomery County Fair, Dayton, Ohio," Office of the White House Press Secretary, Sept. 5, 1966, pp. 4-5.

[13] W. Wirtz, "Policy for Youth," *Vital Speeches of the Day*, Jan. 1, 1967, p. 162.

[14] Statement of Sargent Shriver, Senate Subcommittee of Employment, Manpower, and Poverty, March 23, 1967.

[15] S. Lynd, ed., *Nonviolence in America: A Documentary History* (Indianapolis, Ind.: Bobbs-Merrill, 1966), p. 147.

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ance could occur indefinitely. To enforce national service on everyone, government must extend to civilian experience the discipline of military-type law.

The implication of national service is that the loss of civil liberties and the war against recalcitrant individuals is worthwhile because compulsion is the most effective way of developing and allocating human resources, and thereby of resolving social problems. Of course, nowhere in the national service literature is there a demonstration that this contention is true, and certainly there is never any indication of what sorts of evidence would confirm or invalidate the contentions. By not weighing the claims of national service scientifically, people have opted to bear the costs — or rather shuffle the costs upon others — without securing comparable benefits. The losses, as with military conscription,[16] would occur as (1) budgetary costs, (2) welfare costs to the nation as a whole, and (3) the implicit forced labor tax borne by the service-conscripts. As in the case of military conscription, one result of not stating the claims for national service scientifically is avoidance of the implication that in certain circumstances national service should be abolished—if it ever should be established in the first place. Certainly the shoddy, unscientific way in which national service is usually advanced does not separate moral and empirical arguments; and it is never clear whether people favor national service empirically as a method of resolving problems, or whether they favor national service as a matter of principle.[17] If the former is true, then the arguments should be regarded as sheer hokum until they are presented scientifically so they can be evaluated. If the latter case is true, then the conflict between libertarian, citizen-centered ideas, and state oriented ones, is abundantly clear; and it is clear that only from libertarian, and not from pacifistic grounds, can one develop principled opposition to oppression.

[16] See the article by Walter Y. Oi in this issue.

[17] E.g., D. J. Eberly, ed., *A Profile of National Service* (New York: Overseas Educational Service, 1966), *passim.*

AS A WAY OF fostering exploration of libertarian ideas, we reprint in this issue three articles by men who have illustrated two aspects of the libertarian tradition. One is that the presumption for voluntarism requires exhaustion of voluntary incentives before adopting conscription. Taft, for instance, conceded that on certain rare occasions the requirements of national defense might include conscription, but he added:

> I did oppose the Selective Service Act of 1940, and am still opposed to the compulsory draft of men in time of peace *until every voluntary method has been tried* to obtain the men necessary for the force required for defense.[18]

Great Britain followed this presumption and did not resort to compulsion in World War I until mid-way through the hostilities, in 1916. The other point is that for each of these people anti-conscription was but one element of their libertarian points of view; compulsion in the case of conscription was more overt but not much more serious than compulsion in other areas of life. Hopefully, reprinting these articles will illustrate by example that there is indeed a coherent tradition to which people can refer for a principled opposition to conscription.

THE LIBERTARIAN tradition thrived not as antimilitarism, although that was one element of libertarian thought, but as a general presumption for personal rights, civil guaranties, private property, and constitutional, republican government. Militarism and conscription have thrived not so much because these particular ideas are popular, but because state-oriented ideas generally are popular. The most peaceful, non-militaristic century in modern history—the nineteenth—was also the century in which free trade flourished more than it ever had before, or since; in which the rule of law was extended, at

[18] *A Foreign Policy for Americans* (Garden City, New York: Doubleday, 1951), p. 124. Emphasis supplied.

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least in part, to many European countries and in which libertarian ideas governed the major features of state policy. The British Empire, at the zenith of its influence during the nineteenth century, never employed conscription. And the growth of imperialism toward the end of the nineteenth century was but one part of the movement of ideas that embraced higher trade barriers, the growth of state monopolies, of special labor laws, of compulsory health insurance, and other policies which marked a more vigorous role for government.

Decisive to the continuation of conscription is the general presumption that government is morally and technically qualified to administer the lives of citizens; only by overthrowing this presumption, and reviving libertarian ideas, can conscription be ended. Merely opposing compulsion in the case of conscription promises only a futile, rear-guard harassment of government. Non-libertarians who are anti-conscription have reason empirically to doubt the possibilities of ending conscription without wholly reversing the presumption for state-oriented over citizen centered policy.[19]

[19] For a fine introduction to antimilitarism in America, see A. A. Ekirch, *The Civilian and the Military* (New York: Oxford University Press, 1956). A useful general survey is A. Vagts, *A History of Militarism* (New York: Norton, 1937), and since reprinted. There are many articles of one sort or another dealing with conscription, and one of particular interest, on the efforts exerted by the military to reverse traditional American presumptions against conscription, is H. Baldwin, "The Military Move In," *Harpers*, Dec. 1947, pp. 481-89. The *Nation* is probably the only publication which has preserved a long tradition of opposition to conscription; see in particular the issues during and shortly after World War I—when its editors were both anti-conscription and libertarian.

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Robert A. Taft, 1940

Until his death in 1953, Robert A. Taft was an enlightened spokesman for liberal ideas in financial affairs, in foreign policy, and in military policies. He was elected to the United States Senate in 1938, 1944, and 1950, and was the ideal Republican candidate for President in 1952. His speech in opposition to the Burke-Wadsworth bill, which proposed peacetime conscription in America for the first time in history, is a classic and we reprint it here with only a few changes.[1]

WE FACE TODAY NOT one emergency but two. The first is from abroad; the second is from ourselves. While I do not agree with those who think that Hitler is about to attack the United States, nevertheless we must all recognize that for the next ten years we face a new kind of world. The development of the totalitarian nations, their effective war machines, and their complete lack of regard for international morals have created this new condition. We cannot rely on the sanctity of any treaty or any promise which may be made by the German Government and perhaps by the other governments. I believe that the same condition will exist whether the German attack on England succeeds or fails. England can hardly hope to overwhelm Germany for years to come. There will always be the possibility of the breaking up of the British Empire. We must provide for that possibility. I have voted for all the various appropriations increasing the size of the Navy and of the air forces. We are agreed that we must have a navy able to defend both the Atlantic and Pacific coasts. But surely it is the duty of Congress to consider as respects each measure brought before it the character and extent of the emergency. . . .

For we face another kind of emergency at home. We have steadily drifted toward centralized government. We have given it power to regulate everything and everybody. There is a bill pending in Congress to give the President power to take property of any kind; to fix all prices, to assign every man to a designated position. There is a bill pending providing for a capital levy, taking a large proportion of every man's property in exchange for one per cent government bonds. In short, proposals made by responsible men, if added together, would create exactly the kind of government in this country which exists today in Germany. There are many who urge with the proponents of the Burke-Wadsworth bill that the emergency requires a complete recasting of American life, a dedication of our entire energies to defense alone, and subordination of every principle on which the American Republic is based.

[1] This text is taken from the *Congressional Record*, Appendix, September 6, 1940, pp. 5490-92. The article was originally presented as a radio address by Senator Taft on September 5, 1940.

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It is said that in time of war we have not hesitated to establish a dictatorship. I am afraid we would do so again, whether it is necessary or not. But that is a very different thing from establishing a dictatorship in time of peace on the ground that an emergency exists. In wartime it is frankly done for war purposes, and when the war is over the people know it is time to resume their powers. While the power is exercised, most of those exercising it are intensely inspired by patriotic motives, and politics is largely adjourned. But no one knows when a peace emergency is over. We have been enjoying a continuous emergency for the last seven years. The present emergency may well last for ten years without war reaching our shores. Arbitrary powers granted today may never be resumed.

It is just as dangerous to exaggerate the emergency as it is to underestimate the emergency. When an emergency exists it is all the more important that we retain our respect for the principles of constitutional American government, and that we go no further in modifying them than is absolutely essential.

. . . It is not necessary that we set aside the right of free debate, and a free press, and free speech. It is not necessary, to avoid regimentation by Hitler, that we forget all the Bill of Rights and the protection of minorities and authorize some Executive to conscript men and conscript property.

I am convinced that it can be worked out, retaining the principles of individual liberty for which it was founded, if we try. I am convinced that to meet the threat of a totalitarian nation we need not make ourselves totalitarian. I shudder when I hear the words "total defense." I do not know what "total defense" means, unless it means the subjugation of every other principle of our life to the one subject—military defense. If the words mean anything, they mean that the energies of every individual shall be devoted to defense, and that we shall wipe out from our minds every other goal. That is not true today; I hope it may never be true. At a time like this it is peculiarly necessary that with every measure we take we see that the principles of American freedom are guarded well. Never has the American way of life been in such danger—danger as much from within as from without.

IT IS SAID THAT A compulsory draft is a democratic system. I deny that it has anything to do with democracy. It is far more typical of totalitarian nations than of democratic nations. It is absolutely opposed to the principles of individual liberty, which have always been considered a part of American democracy. Many people came to this country for the single purpose of avoiding the requirements of military service in Europe. This country has always been opposed to a large standing army, and it has been opposed to the use of the draft in time of peace. I shrink from the very setting up of thousands of draft boards, with clerks and employees and endless paper work and red tape; from the registration of 12,000,000 men and the prying into every feature of their lives, their physical condition, their religious convictions, their financial status, and even their hobbies.

The draft is said to be democratic because it hits the rich as well as the poor. Since the rich are about 2 per cent of the total, it is still true that 98 per cent of those drafted are going to be the boys without means. It doesn't make much difference to the poor boy whether the other 2 per cent go or not. To be snatched out of his life work may be a tragedy for a poor boy, but the rich boy will have no trouble finding another job if he is any good at all. As a matter of fact under the volunteer system you would probably get a greater percentage of wealthy boys than under the draft. This is because the wealthier boys all go to college, and the percentage of enlistment from the colleges has always been higher. The need for the defense of this country against nations thousands of miles distant is brought home to those in the colleges more forcibly than it is to the boy who is employed locally, to whom international affairs are a long distance off. Under a volunteer

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system the poor boys who already had good jobs would not have to go.

It is said that under the draft the slacker will stay at home and leave the burden on the patriots. But in the first place, the number of real slackers is negligible in the whole picture, and under the bill any real slacker has an easy "out." All he has to do is marry a lady who has no other means of support. The number of marriages in recent weeks has increased by thousands.

THE PRINCIPLE OF A compulsory draft is basically wrong. If we must use compulsion to get an army, why not use compulsion to get men for other essential tasks? We must have men to manufacture munitions, implements of war, and war vessels. Why not draft labor for those occupations at wages lower than the standard? There are many other industries absolutely essential to defense, like the utilities, the railroads, the coal-mining industry. Why not draft men for those industries, also at $21 a month? If we draft soldiers, why not draft policemen and firemen for city and state service? The logical advocates of the draft admit this necessary conclusion. Senator Pepper, of Florida, has said that he believes the President should have power to draft men for munitions plants. Mr. Walter Lippmann says that if the conscription bill is to serve its real purpose it must not be regarded as a mere device for putting one man out of twenty-five into uniform but must be regarded as a method of mobilizing the men of the country for the much larger and more complicated task of industrial preparedness. In short, the logic behind the bill requires a complete regimentation of most labor and the assignment of jobs to every man able to work. This is actually done today in the Communist and Fascist states, which we are now apparently seeking to emulate.

There has been, very properly, a great outcry against the action of the Senate in authorizing the Secretaries of War and Navy to seize any industrial plant needed for the manufacture of munitions. I voted against that amendment because I do not see the necessity for that any more than for the drafting of men and because it gives uncontrolled discretion to the Secretary of War and the Secretary of the Navy. But at least the owners of such plants are to be fully compensated for their property, while men who are drafted may be forced to give up jobs paying $50 a week to receive a soldier's pay, at most equivalent to $15 a week. Their time is conscripted without compensation.

The argument in favor of conscription proves too much. If the emergency is as great as alleged, then we should adopt a completely socialized state and place ourselves and our property at the disposal of the government. That is fascism. It could only be justified if it were the only possible alternative to the subjugation of the United States by fascism from without.

Is it really necessary to take this long step toward a system in which the state is everything and the individual is nothing? What kind of an army do we want? The developments of the present war have shown that great numbers of men in the trenches are no longer the prime requisite for success. France had universal conscription, but it did them no good against a highly organized, modern, mechanized army. According to all the best military advice, what we need today is an army of experts. We have all kinds of estimates of the number needed in the United States, but the best opinion is that an expert army of not more than 750,000 men would serve every purpose of defense. In January the President only requested funds for an army of 227,000 men. Even on May 31, after the Germans had broken through in France and France was collapsing, the President was satisfied with an army of 280,000 men, and General Marshall himself estimated on June 4 that an army of 400,000 would avoid the necessity of mobilizing the National Guard and give a reasonable liberty of action up to January. Now the "ante has been boosted" to 1,200,000 men. This bill has put the cart before the horse. It is trying to provide a method of raising men before

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anyone has decided how many men should be raised. Up to this time the Army has had no authority to recruit men, in excess of 375,000 plus the National Guard of 225,000; has had no authority to invite boys into training camps for military training.

As far as the Regular Army is concerned, conscription is the poorest possible method of getting it. Men are chosen at random from all kinds of occupations, mostly unrelated to the Army. After one year they naturally return to the jobs which they were forced to give up. Someone else equally unwilling and equally inexperienced has to be given a year of partial training. There is only one way to get the kind of Army we need today—that is to make the Army an occupation sufficiently attractive so that men will go to it as a matter of choice. Why should we expect men to accept pay equivalent to approximately $15 a week? Privates in the Army get board, lodging, and clothes, equivalent perhaps to $40 a month, plus $21 in cash, a total of $61 a month. They should certainly get the equivalent of $100 a month. The Army does not want a lot of men who leave at the end of one year or even of three years; they want men who are sufficiently satisfied to stay indefinitely.

It is said that the voluntary-enlistment plan has broken down. Of course that is utterly untrue. In spite of inadequate pay and in spite of three-year enlistments, from which a man cannot escape if a better job is offered, it has been accomplishing everything which had been asked of it. Men are enlisting today at a rapid rate — 40,000 enlisted in the month of August. Yet there has been no really serious effort to enlist men, and no call by the President for volunteers. In fact, he has publicly discouraged college boys from enlisting.

Men are looking for jobs with reasonable pay. In New York City this year it was necessary to fill a position as sanitation man at $1,800 a year, which, considering the cost of living in New York City, is not very much more than Army pay plus support. There were 84,000 applications from New York City alone.

Of course the men who enlist in the Army, like the men who get jobs in any industry, are those who at the time are out of work. There are more than 5,000,000 men out of work today, looking for jobs. There are over 1,700,000 on W.P.A. and over 200,000 in the C.C.C. camps. The government is paying these men in a way which makes W.P.A. and C.C.C. more attractive than the Army. We have not the right to require these men, as a condition of government aid, to accept employment in the Army; but surely, if we make the Army only reasonably attractive, many of them will prefer the Army to W.P.A. or C.C.C.

How utterly ridiculous it is to make 700,000 men give up good jobs at a time of life when they are first making real progress, while many millions of men out of work, and 1,200,000 boys coming of age every year, are looking for jobs. The idea that the Army is the most unpleasant occupation in the world, into which men must be forced against their will, is archaic and fallacious. In time of war Army service is dangerous, but if we prepare adequately, we should not be at war, and the Army for the most part is a peacetime, highly specialized occupation with only a chance of danger. Experience shows that men do not avoid an occupation because there is a chance of danger. There are dangerous civilian occupations — work with high-tension wires, work in tunnel construction, work in coal mines; and there is never any difficulty in finding men interested in those occupations.

The Air Corps is the most dangerous part of the Army, but more men want to enlist than can be accepted. The Army has many advantages, a clean and regular life without great responsibility, an attraction in the very discipline and order which appeals to some men and offends others very greatly. The Navy always has a waiting list because they pay their men more adequately to try to make their service attractive. The Army should be just as attractive today. We already have 650,000 men available under existing law. We will have no diffi-

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culty in getting 750,000 or 950,000 or 1,200,000 under the volunteer system, if the Army is made as attractive to the average man as many other jobs furnished by industry.

As for the Reserve, we have never tried getting men for military training camps. No such camps are in existence except for Reserve officers. Of the 1,200,000 boys who graduate from high school or college every year, a large proportion could be persuaded to take a year in the military training camps at the government's expense before starting on their life work. Within a very few years we would build up all the Reserve we could possibly need. An attempt to raise whatever Army is necessary by a volunteer appeal will unquestionably meet with success if that attempt has the wholehearted cooperation of the Administration and of the Army; that it will furnish 400,000 men if that many are needed, before the complicated draft is working.

There are some who have felt that the emergency is so immediate that only the draft will meet it. Obviously that is not today the official view. The President has just transferred fifty destroyers to England in exchange for bases which will not be ready for a year. If Hitler were about to overwhelm England and attack the United States, the President obviously could not weaken our Navy by depriving it of fifty destroyers now in active service. The alleged need immediately for a huge Army is based on the theory that our Navy is inadequate. The President has just determined that the Navy is completely adequate and can even afford to surrender fifty of its fighting craft. What has happened to the emergency supposed to justify this drafting of men, so complete a departure from American tradition and so long a step toward dictatorship? No; we obviously have a reasonable time before Mr. Hitler can possibly organize an attack on the United States. It is no easy task to transport an army across 3,000 miles of water while our Navy is in existence. We have time to do our job in the right way. We have time to get the kind of voluntary expert mechanized Army we really need. We have time to do the job without upsetting and perhaps wrecking hundreds of thousands of lives. We can do it without excitement and hysteria, without breaking down the fundamental principles of the American Republic. We can do it without over-estimating the emergency, and sinking all the principles we love in the slough of total defense.

Free men, free enterprise, free speech are the cornerstones of the American Republic. If the Burke-Wadsworth bill should become law, we will have to accept that limitation of freedom. But we should be all the more vigilant to oppose the further limitations on freedom. The more we yield to the demand for arbitrary power, the more power will be demanded, until freedom will be as nonexistent in America as it is in Germany today. In fact we may even be turning over these destroyers to Germany to be used against us, for the British may have to surrender their fleet, according to the William Allen White Committee. Of course, in case of British defeat any pledge of the present British Government would be worthless, for the Government would not be there. Obviously the President must consider our fleet more than adequate for defense.

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Oswald Garrison Villard, 1916

Oswald Garrison Villard was a genuine liberal and pacifist throughout most of his life. He was the grandson of William Lloyd Garrison, the great abolitionist and founder of the Liberator. *Villard inherited the New York* Evening Post *from his father, Henry Villard, and edited that until he sold it in 1918. He was editor of the* Nation *for many years until its sale in 1932, serving thereafter as a contributor until 1940—when the* Nation *opted both for an interventionist foreign policy and domestic statism (after 1929, even Villard did not escape these latter influences). In 1940 he severed all connections with the journal. We reprint here his editorial from the* Nation[1] *as a brisk rebuttal to the widespread notions that conscription and universal military training are democratic and beneficial to society. It is worth noting that this and other of his best statements on conscription appeared during a period in his life when he was most laissez faire in his opinions and furtherest away from socialism.*

IN THE YEARS to come none of the many amazing phenomena of 1916 will, we are sure, cause greater wonderment than our recent discovery that universal military service is the cure-all for every one of our American ills. Do we wish to defend our country? We have but to adopt the system of training every boy to be a soldier, and the problem is solved. Do we wish to become industrially efficient? Then let us forget all about vocational training, but give every American a year under arms, and presto! we shall outdo Germany in scientific efficiency and management. Is our youth lawless and undisciplined? Universal compulsory service will end that once and for all. Is our democracy halting? It is the tonic of a democratic army that we need, in which all men shall pay for the privileges of citizenship by a year of preparation for poisonous gas and of learning how to shoot. Our melting-pot is a failure? Then let us pour into it the iron metal of militarism, and it will fuse every element at once. Finally, if we need an American soul—and the war has suddenly taught us that this glorious country lacks a soul—it is the remedy of universal military service that is to supply our spiritual needs and give us the ability to feel as one, to think as one, to steer towards our destiny as of one mind.

It is all so alluring and so entrancingly easy, the wonder is that we have never thought of it before. We saw it going on in France and Germany and Russia, but it seemed altogether repulsive in its forms. Americans to be conscripted? Heaven forbid. There rose before us the unutterable cruelties of non-commissioned officers and some of the

[1] This text is taken from the *Nation*, CII (May 11, 1916), 510-11. Although published as an unsigned editorial, authorship has been verified with copies of the *Nation* in the possession of the publishers bearing Villard's notes.

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officers — visions of the men who have come to our shores with hands mutilated to avoid the barracks, with their open immoralities, their bitter hardships, the loss of three years of so many working lives. The "Red Rosa," Rosa Luxembourg, with her 10,000 authenticated instances of cruelties to German soldiers, inflicted by their own countrymen behind the screen of official authority, explained to us why so many young Germans emigrated before coming of military age. We saw in universal Russian service a complete reason for the failure of the Russian revolution [1905], for the survival of the corrupt bureaucratic government. We knew of men of noble spirit in every land crushed by the whole system. We saw in the development of the Prussian military clique not merely the fine flower of militarism, but the true fruits of universal service. We recalled, too, James Madison's belief that "large armies and heavy taxes are the best-known instruments for bringing the many under the domination of the few."

But it now seems that we were mistaken in all this; that our failure to progress financially, economically, and spiritually as rapidly as we should have done has been due solely to our failure to grasp at the panacea that lay so easily within our reach. Take the education of our boys. The other day at a joint meeting of two schoolmasters' associations there were divided views on some issues, but none apparently as to the utter lawlessness of our American youth and the complete failure of our private schools to reduce them to subordination by means of mental and moral discipline. And so there were many who grasped with joy at the idea of the universal-military-drill to retrieve for them the ground lost by their own failure to do the fundamental thing they pledged themselves to accomplish. Of course, they knew little or nothing about universal service; perhaps it was the unexplored mystery of it that appealed. Many Americans are quite sure that the latest untried remedy, be it some law, or the initiative and referendum, or the recall of judicial decisions, or some other panacea, is, by reason of its very newness, just the medicine for a given ill they have been looking for. So with these school-teachers. Ignoring the fact that our private military schools have been anything but popular, and only in exceptional cases of high standing, they turn to military drill as to a last straw. One can admire their courage while marvelling at their judgment. Fortunately, those particular teachers heard the European system of a nation in arms denounced by one of their number, who had served in Austria both as private and as officer.

WHAT THEY DO not see any more than the Stanwood Menkens who, never having borne arms, yet know that universal service is what we need to make patriots by the million, is that the spirit of compulsory service makes directly against the American ideal, for it inculcates blind obedience to the will of others, subordination to those who are masters not necessarily because of superior wisdom or fitness, but largely because of accident. It often means cringing before men who abuse their powers, particularly over men of finer instincts and antecedents — just as the late Karl Bitter was driven to desert from the Austrian service by intolerable persecutions. It is not without significance that there is a suicide a day among the private soldiers in Germany in time of peace — no record being kept of unsuccessful attempts at self-destruction. Again, as Major-Gen. O'Ryan, of the New York National Guard, has put it, the primary thing that military service teaches is that the soldier shall *stop thinking* and become an automaton — to do only what his officers tell him. And usually there is a steadily widening cleft between him and those officers.

Once we valued American self-assertiveness, independence of thought and action, mental alertness, yes, even the happy-go-lucky Yankee initiative and individuality, as some of our best characteristics. Now we are to prefer men cast in one mold, drilled in one way of thinking, and into obedience to their

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rulers. Formerly, we deemed it most worth while that all men should have their own opinions, express them freely, and differ with their rulers as they saw fit — since their rulers were but their servants. As for making patriots, universal military service makes Socialists and deserters. There is nothing whatsoever democratic about it, save that it applies to all men alike. Where universal service is most efficient, there is every kind of distinction as to regiments and individuals. The peasant serves three years, the "gentleman" one. The favors shown to the Guard regiments in Germany have led to more than one bitter debate in the Reichstag. What can there be democratic about an army? Its whole fundamental principle is that of a hierarchy in which everybody responds automatically and blindly to the will of a commander-in-chief. What system could be more directly opposed to the democratic theory?

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Published Autumn, Winter, and Spring

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Daniel Webster, 1814

This famous speech, which Webster delivered in the House of Representatives in December 1814, is reprinted here in its entirety.[1] *It is an example of Webster in his prime, when he opposed conscription and favored free trade. It was in large measure Webster's work which defeated Mr. Madison's conscription proposal in 1814, and we hope his words may have some influence on today's Status Quo, which has lined up behind Mr. Johnson's conscription. It is both amusingly enlightening and sadly regrettable that so many of the concepts of the Federal Republic which Webster defended and relied upon in his lifetime have completely passed away in this century.*

MR. CHAIRMAN: AFTER the best reflection which I have been able to bestow on the subject of the bill before you, I am of the opinion that its principles are not warranted by any provision of the Constitution. It appears to me to partake of the nature of those other propositions for military measures which this session, so fertile in inventions, has produced. It is of the same class with the plan of the Secretary of War; with the bill reported to this House by its own Committee for filling the ranks of the regular army, by classifying the free male population of the United States; and with the resolution recently introduced by an honorable gentleman from Pennsylvania (Mr. Ingersoll), and which now lies on your table, carrying the principle of compulsory service in the regular army to its utmost extent.

This bill indeed is less undisguised in its object, and less direct in its means, than some of the measures proposed. It is an attempt to exercise the power of forcing the free men of this country into the ranks of an army, for the general purposes of war, under color of a miltary service. To this end it commences with a classification which is no way connected with the general organization of the militia, nor, to my apprehension, included within any of the powers which Congress possesses over them. All the authority which this government has over the militia, until actually called into the ranks of an army, for the general purposes of war, under color of a mili- power it has exercised. It now possesses the further power of calling into its service any portion of the militia of the States, in the particular exigencies for which the Constitution provides, and of governing them during the continuance of such service. Here its authority

[1] This text is taken from D. Webster, *Writings and Speeches* (Boston: Little, Brown, 1903), pp. 55-69. The article was originally delivered as a speech on the floor of the House of Representatives, December 9, 1814, in opposition to President Madison's proposal for compulsory military service; the speech was transcribed afterwards by Webster himself.

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ceases. The classification of the whole body of the militia, according to the provisions of this bill, is not a measure which respects either their general organization or their discipline. It is a distinct system, introduced for new purposes, and not connected with any power which the Constitution has conferred on Congress.

But, sir, there is another consideration. The services of the men to be raised under this act are not limited to those cases in which alone this government is entitled to the aid of the militia of the States. These cases are particularly stated in the Constitution, "to repel invasion, suppress insurrection, or execute the laws." But this bill has no limitation in this respect. The usual mode of legislating on the subject is abandoned. The only section which would have confined the service of the militia, proposed to be raised, within the United States has been stricken out; and if the President should not march them into the Provinces of England at the north, or of Spain at the south, it will not be because he is prohibited by any provision in this act.

This, sir, is a bill for calling out the militia, not according to its existing organization, but by draft from new created classes; — not merely for the purpose of "repelling invasion, suppressing insurrection, or executing the laws," but for the general objects of war — for defending ourselves, or invading others, as may be thought expedient; — not for a sudden emergency, or for a short time, but for long stated periods; for two years, if the proposition of the Senate should finally prevail; for one year, if the amendment of the House should be adopted. What is this, sir, but raising a standing army out of militia by draft, and to be recruited by draft, in like manner, as often as occasion may require?

This bill, then, is not different in principle from the other bills, plans, and resolutions which I have mentioned. The present discussion is properly and necessarily common to them all. It is a discussion, sir, of the last importance. That measures of this nature should be debated at all, in the councils of a free government, is cause of dismay. The question is nothing less than whether the most essential rights of personal liberty shall be surrendered, and depotism embraced in its worst form.

I HAVE RISEN, ON this occasion, with anxious and painful emotions, to add my admonition to what has been said by others. Admonition and remonstrance, I am aware, are not acceptable strains. They are duties of unpleasant performance. But they are, in my judgment, the duties which the condition of a falling state imposes. They are duties which sink deep in his conscience, who believes it probable that they may be the last services which he may be able to render to the government of his country. On the issue of this discussion, I believe the fate of the government may rest. Its duration is incompatible, in my opinion, with the existence of the measures in contemplation. A crisis has at last arrived, to which the course of things has long tended, and which may be decisive upon the happiness of present and of future generations. If there be anything important in the concerns of men, the considerations which fill the present hour are important, I am anxious, above all things, to stand acquitted before God and my own conscience, and in the public judgment, of all participations in the counsels which have brought us to our present condition and which now threaten the dissolution of the government. When the present generation of men shall be swept away, and that this government ever existed shall be matter of history only, I desire that it may be known that you have not proceeded in your course unadmonished and unforewarned. Let it then be known, that there were those who would have stopped you, in the career of your measures, and held you back, as by the skirts of your garments, from the precipice over which you are plunging and drawing after you the government of your country.

I had hoped, sir, at an early period of the session, to find gentlemen in an-

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other temper. I trusted that the existing state of things would have impressed on the minds of those who decide national measures, the necessity of some reform in the administration of affairs. If it was not to have been expected that gentlemen would be convinced by argument, it was still not unreasonable to hope that they would listen to the solemn preaching of events. If no previous reasoning could satisfy them, that the favorite plans of government would fail, they might yet be expected to regard the fact, when it happened, and to yield to the lesson which it taught. Although they had, last year, given no credit to those who predicted the failure of the campaign against Canada, yet they had seen that failure. Although they then treated as idle all doubts of the success of the loan, they had seen the failure of that loan. Although they then held in derision all fears for the public credit, and the national faith, they had yet seen the public credit destroyed, and the national faith violated and disgraced. They had seen much more than was predicted; for no man had foretold that our means of defense would be so far exhausted in foreign invasion, as to leave the place of our own deliberations insecure, and that we should this day be legislating in view of the crumbling monuments of our national disgrace. No one had anticipated that this city would have fallen before a handful of troops, and that British generals and British admirals would have taken their airings along the Pennsylvania Avenue, while the government was in full flight, just awaked perhaps from one of its profound meditations on the plan of a conscription for the conquest of Canada. These events, sir, with the present state of things, and the threatening aspect of what is future, should have brought us to a pause. They might have reasonably been expected to induce Congress to review its own measures, and to exercise its great duty of inquiry relative to the conduct of others. If this was too high a pitch of virtue for the multitude of party men, it was at least to have been expected from gentlemen of influence and character, who ought to be supposed to value something higher than mere party attachment, and to act from motives somewhat nobler than a mere regard to party consistency. All that we have yet suffered will be found light and trifling in comparison with what is before us, if the government shall learn nothing from experience but to despise it, and shall grow more and more desperate in its measures, as it grows more and more desperate in its affairs.

IT IS TIME FOR Congress to examine and decide for itself. It has taken things on trust long enough. It has followed executive recommendation, 'til there remains no hope of finding safety in that path. What is there, sir, that makes it the duty of this people now to grant new confidence to the Administration, and to surrender their most important rights to its discretion? On what merits of its own does it rest this extraordinary claim? When it calls thus loudly for the treasure and the lives of the people, what pledge does it offer that it will not waste all in the same preposterous pursuits which have hitherto engaged it? In the failure of all past promises, do we see any assurance of future performance? Are we to measure out our confidence in proportion to our disgrace and now at last to grant away everything, because all that we have heretofore granted has been wasted or misapplied? What is there in our condition that bespeaks a wise or an able government? What is the evidence that the protection of the country is the object principally regarded? In every quarter that protection has been more or less abandoned to the States. That every town on the coast is not now in possession of the enemy, or in ashes, is owing to the vigilance and exertions of the States themselves, and to no protection granted to them by those on whom the whole duty of their protection rested.

Or shall we look to the acquisition of the professed objects of the war, and there find grounds for approbation and confidence. The professed objects of the war are abandoned in all due form. The contest for sailors' rights is turned into

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a negotiation about boundaries and military roads, and the highest hope entertained by any man of the issue, is that we may be able to get out of the war without a cession of territory.

Look, sir, to the finances of the country. What a picture do they exhibit of the wisdom and prudence and foresight of government. "The revenue of a state," says a profound writer, "is the state." If we are to judge of the condition of the country by the condition of its revenues, what is the result? A wise government sinks deep the fountain of its revenues — not only 'til it can touch the first springs, and slake the present thirst of the treasury, but 'til lasting sources are opened, too abundant to be exhausted by demands, too deep to be affected by heats and droughts. What, sir, is our present supply, and what our provision for the future resource? I forebear to speak of the present condition of the treasury; and as to public credit, the last reliance of government, I use the language of government itself only, when I say it does not exist. This is a state of things calling for the soberest counsels, and yet it seems to meet only the wildest speculations. Nothing is talked of but banks, and a circulating paper medium, and exchequer notes, and the thousand other contrivances which ingenuity, vexed and goaded by the direst necessity, can devise, with the vain hope of giving value to mere paper. All these things are not revenue, nor do they produce it. They are the effect of a productive commerce, and a well ordered system of finance, and in their operation may be favorable to both, but are not the cause of either. In other times these facilities existed. Bank paper and government paper circulated because both rested on substantial capital or solid credit. Without these they will not circulate, nor is there a device more shallow or more mischievous, than to pour forth new floods of paper without credit as a remedy for the evils which paper without credit has already created. As was intimated the other day by my honorable friend from North Carolina (Mr. Gaston) this is an attempt to act over again the farce of the Assignats of France. Indeed, sir, our politicians appear to have but one school. They learn everything of modern France; with this variety only, that for examples of revenue they go to the Revolution, when her revenue was in the worst state possible, while their model for military force is sought after in her imperial era, when her military was organized on principles the most arbitrary and abominable.

LET US EXAMINE the nature and extent of the power which is assumed by the various military measures before us. In the present want of men and money, the Secretary of War has proposed to Congress a military conscription. For the conquest of Canada, the people will not enlist; and if they would, the treasury is exhausted, and they could not be paid. Conscription is chosen as the most promising instrument, both of overcoming reluctance to the service, and of subduing the difficulties which arise from the deficiencies of the exchequer. The Administration asserts the right to fill the ranks of the regular army by compulsion. It contends that it may now take one out of every twenty-five men, and any part, or the whole of the rest, whenever its occasions require. Persons thus taken by force, and put into an army, may be compelled to serve there during the war, or for life. They may be put on any service, at home or abroad, for defense or for invasion, accordingly to the will and pleasure of the government. This power does not grow out of any invasion of the country, or even out of a state of war. It belongs to government at all times, in peace as well as in war, and it is to be exercised under all circumstances, according to its mere discretion. This sir, is the amount of the principle contended for by the Secretary of War.

Is this, sir, consistent with the character of a free government? Is this civil liberty? Is this the real character of our Constitution? No sir, indeed it is not. The Constitution is libelled, foully libelled. The people of this country have

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not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a Magna Charta to be slaves. Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war in which the folly or the wickedness of government may engage it? Under what concealment has this power lain hidden which now for the first time comes forth, with a tremendous and baleful aspect, to trample down and destroy the dearest rights of personal liberty? Who will show me any Constitutional injunction which makes it the duty of the American people to surrender everything valuable in life, and even life itself, not when the safety of their country and its liberties may demand the sacrifice, but whenever the purposes of an ambitious and mischievous government may require it? Sir, I almost disdain to go to quotations and references to prove that such an abominable doctrine has no foundation in the Constitution of the country. It is enough to know that that instrument was intended as the basis of a free government, and that the power contended for is incompatible with any notion of personal liberty. An attempt to maintain this doctrine upon the provisions of the Constitution is an exercise of perverse ingenuity to extract slavery from the substance of a free government. It is an attempt to show, by proof and argument, that we ourselves are subjects of despotism, and that we have a right to chains and bondage, firmly secured to us and our children by the provisions of our government. It has been the labor of other men, at other times, to mitigate and reform the powers of government by construction; to support the rights of personal security by every species of favorable and benign interpretation, and thus to infuse a free spirit into governments not friendly in their general structure and formation to public liberty.

The supporters of the measures before us act on the opposite principle. It is their task to raise arbitrary powers, by construction, out of a plain written charter of National Liberty. It is their pleasing duty to free us of the delusion, which we have fondly cherished, that we are the subjects of a mild, free, and limited government, and to demonstrate, by a regular chain of premises and conclusions, that government possesses over us a power more tyrannical, more arbitrary, more dangerous, more allied to blood and murder, more full of every form of mischief, more productive of every sort and degree of misery than has been exercised by any civilized government, with a single exception, in modern times.

The Secretary of War has favored us with an argument on the constitutionality of this power. Those who lament that such doctrines should be supported by the opinions of a high officer of government, may a little abate their regret, when they remember that the same officer, in his last letter of instructions to our ministers abroad, maintained the contrary. In that letter he declares, that even the impressment of seamen, for which many more plausible reasons may be given than for the impressment of soldiers, is repugnant to our Constitution. It might therefore be a sufficient answer to his argument, in the present case, to quote against it the sentiments of its own author, and to place the two opinions before the House, in a state of irreconcilable conflict. Further comment on either might then by properly foreborne, until he should be pleased to inform us which he retracted, and to which he adhered. But the importance of the subject may justify a further consideration of the arguments.

CONGRESS HAVING, BY the Constitution, a power to raise armies, the Secretary contends that no restraint is to be imposed on the exercise of this power, except such as is expressly stated in the written letter of the instrument. In other words, that Congress may execute its powers, by any means it chooses, unless such means are particularly prohibited. But the general nature and object of

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the Constitution impose as rigid a restriction on the means of exercising power as could be done by the most explicit injunctions. It is the first principle applicable to such a case, that no construction shall be admitted which impairs the general nature and character of the instrument. A free constitution of government is to be construed upon free principles, and every branch of its provisions is to receive such an interpretation as is full of its general spirit. No means are to be taken by implication which would strike us absurdly if expressed. And what would have been more absurd than for this Constitution to have said that to secure the great blessings of liberty it gave to government an uncontrolled power of military conscription? Yet such is the absurdity which it is made to exhibit, under the commentary of the Secretary of War.

But it is said that it might happen that an army could not be raised by voluntary enlistment, in which case the power to raise armies would be granted in vain, unless they might be raised by compulsion. If this reasoning could prove anything, it would equally show, that whenever the legitimate power of the Constitution should be so badly administered as to cease to answer the great ends intended by them, such new powers may be assumed or usurped, as any existing Administration may deem expedient. This is the result of his own reasoning, to which the Secretary does not profess to go. But it is a true result. For if it is to be assumed, that all powers were granted, which might by possibility become necessary, and that government itself is the judge of this possible necessity, then the powers of government are precisely what it chooses they should be. Apply the same reasoning to any other power granted to Congress, and test its accuracy by the result. Congress has power to borrow money. How is it to exercise this power? Is it confined to voluntary loans? There is no express limitation to that effect, and, in the language of the secretary, it might happen, indeed it has happened, that persons could not be found willing to lend. Money might be borrowed then in any other mode. In other words. Congress might resort to a *forced* loan. It might take the money of any man by force, and give him in exchange exchequer notes or certificates of stock. Would this be quite constitutional, sir? It is entirely within the reasoning of the Secretary, and it is a result of his argument, outraging the rights of individuals in a far less degree than the practical consequences which he himself draws from it. A compulsory loan is not to be compared, in point of enormity, with a compulsory military service.

If the Secretary of War has proved the right of Congress to enact a law enforcing a draft of men out of the militia into the regular army, he will at any time be able to prove, quite as clearly, that Congress has power to create a Dictator. The arguments which have helped him in one case, will equally aid him in the other, the same reason of a supposed or possible state necessity, which is urged now, may be repeated then, with equal pertinency and effect.

Sir, in granting Congress the power to raise armies, the people have granted all the means which are ordinary and usual, and which are consistent with the liberties and security of the people themselves, and they have granted no others. To talk about the unlimited power of the government over the means to execute its authority, is to hold a language which is true only in regard to despotism. The tyranny of arbitrary governments consists as much in its means as in its ends; and it would be a ridiculous and absurd constitution which should be less cautious to guard against abuses in the one case than in the other. All the means and instruments which a free government exercises, as well as the ends and objects which it pursues, are to partake of its own essential character, and to be conformed to its genuine spirit. A free government with arbitrary means to administer it is a contradiction; a free government without adequate provisions for personal security is an absurdity; a free government, with an uncontrolled power of military conscription, is a solecism, at once the most ridiculous and

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abominable that ever entered into the head of man.

SIR, I INVITE THE supporters of the measures before you to look to their actual operation. Let the men who have so often pledged their own fortunes and their own lives to the support of this war, look to the wanton sacrifice which they are about to make of their lives and fortunes. They may talk as they will about substitutes, and compensations, and exemptions. It must come to the draft at last. If the government cannot hire men voluntarily to fight its battles, neither can individuals. If the war should continue, there will be no escape, and every man's fate and every man's life will come to depend on the issue of the military draft. Who shall describe to you the horror which your orders of conscription shall create in the once happy villages of this country? Who shall describe the distress and anguish which they will spread over those hills and valleys, where men have heretofore been accustomed to labor, and to rest in security and happiness. Anticipate the scene, sir, when the class shall assemble to stand its draft, and to throw the dice for blood. What a group of wives and mothers and sisters, of helpless age and helpless infancy, shall gather round the theatre of this horrible lottery, as if the stroke of death were to fall from heaven before their eyes on a father, a brother, a son, or a husband. And in a majority of cases, sir, it will be the stroke of death. Under present prospects of the continuance of the war, not one half of them on whom your conscription shall fall will ever return to tell the tale of their sufferings. They will perish of disease and pestilence, or they will leave their bones to whiten in fields beyond the frontier. Does the lot fall on the father of a family? His children, already orphans, shall see his face no more. When they behold him for the last time, they shall see him lashed and fettered, and dragged away from his own threshold, like a felon and an outlaw. Does it fall on a son, the hope and the staff of aged parents? That hope shall fail them. On that staff they shall lean no longer. They shall not enjoy the happiness of dying before their children. They shall totter to their grave, bereft of their offspring and unwept by any who inherit their blood. Does it fall on a husband? The eyes which watch his parting steps may swim in tears forever. She is a wife no longer. There is no relation so tender or so sacred that by these accursed measures you do not propose to violate it. There is no happiness so perfect that you do not propose to destroy it. Into the paradise of domestic life you enter, not indeed by temptations and sorceries, but by open force and violence.

But this father, or this son, or this husband goes to the camp. With whom do you associate him? With those only who are sober and virtuous and respectable like himself? No, sir. But you propose to find him companions in the worst men of the worst sort. Another bill lies on your table offering a bounty to deserters from your enemy. Whatever is most infamous in his ranks you propose to make your own. You address yourselves to those who will hear you and advise them to perjury and treason. All who are ready to set heaven and earth at defiance at the same time, to violate their oaths and run the hazard of capital punishment, and none others, will yield to your solicitations. And these are they whom you are allowing to join ranks, by holding out to them inducements and bounties with one hand, while with the other you are driving thither the honest and worthy members of your own community, under the lash and scourge of conscription. In the line of your army, with the true levelling of despotism, you propose a promiscuous mixture of the worthy and the worthless, the virtuous and the profligate; the husbandman, the merchant, the mechanic of your own country, with the beings whom war selects from the excess of European population, who possess neither interest, feeling, nor character in common with your own people, and who have no other recommendation to your notice than their propensity to crimes.

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Nor is it, sir, for the defense of his own house and home, that he who is the subject of military draft is to perform the task allotted to him. You will put him upon a service equally foreign to his interests and abhorrent to his feelings. With his aid you are to push your purposes of conquest. The battles which he is to fight are the battles of invasion — battles which he detests perhaps, and abhors, less from the danger and the death that gather over them, and the blood with which they drench the plain, than from the principles in which they have their origin. Fresh from the peaceful pursuits of life, and yet a soldier but in name, he is to be opposed to veteran troops, hardened under every scene, inured to every privation, and disciplined in every service. If, sir, in this strife he fall — if, while ready to obey every rightful command of government, he is forced from his home against right, not to contend for the defense of his country, but to prosecute a miserable and detestable project of invasion, and in that strife he fall 'tis murder. It may stalk above the cognizance of human law, but in the sight of Heaven it is murder; and though millions of years may roll away, while his ashes and yours lie mingled together in the earth, the day will yet come when his spirit and the spirits of his children must be met at the bar of omnipotent justice. May God, in his compassion, shield me from any participation in the enormity of this guilt.

I WOULD ASK, SIR, whether the supporters of these measures have well weighed the difficulties of their undertaking. Have they considered whether it will be found easy to execute laws which bear such marks of despotism on their front, and which will be so productive of every sort and degree of misery in their execution? For one, sir, I hesitate not to say that they cannot be executed. No law professedly passed for the purpost of compelling a service in the regular army, nor any law which, under color of military draft, shall compel men to serve in the army, not for the emergencies mentioned in the Constitution, but for long periods, and for the general objects of war, can be carried into effect. In my opinion it ought not to be carried into effect. The operation of measures thus unconstitutional and illegal ought to be prevented by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State governments to protect their own authority over their own militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State governments exist; and their highest obligations bind them to the preservation of their own rights and the liberties of their people. I express these sentiments here, sir, because I shall express them to my constituents. Both they and myself live under a constitution which teaches us that "the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind." [New Hampshire Bill of Rights] With the same earnestness with which I now exhort you to forebear from these measures, I shall exhort them to exercise their unquestionable right of providing for the security of their own liberties.

In my opinion, sir, the sentiments of the free population of this country are greatly mistaken here. The nation is not yet in a temper to submit to conscription. The people have too fresh and strong a feeling of the blessings of civil liberty to be willing thus to surrender it. You may talk to them as much as you please, of the victory and glory to be obtained in the enemy's provinces; they will hold those objects in light estimation if the means be a forced military service. You may sing to them the song of Canada Conquest in all its variety, but they will not be charmed out of the remembrance of their substantial interests and true happiness. Similar pretences, they know, are the grave in which the liberties of other nations have been buried, and they will take warning.

Laws, sir, of this nature can create nothing but opposition. If you scatter them abroad, like the fabled serpents'

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teeth, they will spring up into armed men. A military force cannot be raised in this manner, but by the means of a military force. If the Administration has found that it cannot form an army without conscription, it will find, if it ventures on these experiments, that it cannot enforce conscription without an army. The government was not constituted for such purposes. Framed in the spirit of liberty, and in the love of peace, it has no powers which render it able to enforce such laws. The attempt, if we rashly make it, will fail; and having already thrown away our peace, we may thereby throw away our government.

Allusions have been made, sir, to the state of things in New England, and, as usual, she has been charged with an intention to dissolve the Union. The charge is unfounded. She is much too wise to entertain such purposes. She has had too much experience, and has too strong a recollection of the blessings which the Union is capable of producing under a just administration of government. It is her greatest fear, that the course at present pursued will destroy it, by destroying every principle, every interest, every sentiment, and every feeling which have hitherto contributed to uphold it. Those who cry out that the Union is in danger are themselves the authors of that danger. They put its existence to hazard by measures of violence, which it is not capable of enduring. They talk of dangerous designs against government, when they are overthrowing the fabric from its foundations. They alone, sir, are friends to the union of the States, who endeavor to maintain the principles of civil liberty in the country, and to preserve the spirit in which the Union was framed.

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NEW BOOKS AND ARTICLES

THE FOLLOWING ARE A SELECTION OF ITEMS AND NOTES WHICH, IN THE OPINION OF THE EDITORS, MAY BE OF INTEREST TO OUR READERS.

Two fine anthologies have appeared in paperback: Arthur A. Ekirch, *Voices in Dissent,* New York, Citadel, 1966. $2.45. And: Staughton Lynd, *Non-Violence in America: A Documentary History,* Indianapolis, Bobbs-Merrill, 1966. $3.45. Both anthologies, in particular the one by Ekirch, could use a generous dose of bibliographic citation to indicate where the fervent reader could find more information. The currents of liberty and peace run through both books, and they illustrate well the surviving ideas of natural law: that social organization should be citizen-centered rather than state-oriented and that laws are to be judged by the citizenry, as individuals; laws must be judged according to criteria independent of the state.

Richard Flacks, Florence Howe, and Paul Lauter, "On the Draft," *The New York Review of Books,* April 6, 1967. Another example of an interesting article dealing with the draft and American empire, illustrating once again the features of thought shared by the "New Left" and many on the "Old Right." Consider this comment on national service: "One of the main hand-wringers, Margaret Mead, describes national service at work: 'Every individual, including the physically handicapped, the mentally defective, the emotionally disturbed, the totally illiterate, would be registered, and every one of these, according to their needs or potentialities, would be assigned to types of rehabilitation, education, and different kinds of service with different sorts of risks, benefits, and requirements.' Oddly, despite this description, national service advocates persist in calling the system 'voluntary.' To deal with at least two million new men annually (to say nothing of women), the system would require an enormous Federal bureaucracy, fantastic expenditures for training and maintenance, and expansion of service opportunities beyond anything now imaginable. Besides, service is probably best rendered by those who freely give it.

"Above all, national service — perhaps servitude is a more appropriate term — would mean an enormous jump in the degree of control by a central authority over the lives of Americans. Assignments to the military, to service, or to rehabilitation would finally be made not according to individual ability or interest, but by a centralized manpower planning commission, according to established definitions on national priorities. In this light, national service can be seen as the present draft writ large: 'channeling' no longer applied 'indirectly' — the 'American way' — but by compulsion. The system becomes a machine, in which men are considered as a 'national resource,' to be developed, channeled, enriched, molded, utilized, exploited, and above all, nationalized — in the public interest, to be sure."

John M. Swomley, Jr., who has long opposed conscription, recently smoked out national service in "The National Service Proposal," *Christian Century,* January 11, 1967. Swomley has some silly (favorable) ideas about a guaranteed annual income, minimum wage laws, and "free" health services, but he does point out that the decisive inequities of conscription do *not* occur simply because not all people are conscripted: "The real inequity of military conscription lies at this point of pay, not simply in the fact that some young men are drafted and others are not. The real inequity is that we are drafting men when there is no need to do so except to keep down the taxes of the rich whose financial interests

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are being preserved around the world by the low-paid soldiers. . . . It is one thing to provide voluntary service opportunities; it is quite another to institute a national service program whose pivotal concepts are peace time conscription and service to humanity via the nation." Donald J. Eberly replied in "National Service: Purpose and Potential," *Christian Century,* April 5, 1967. Eberley's main argument appears to be that life is full of coercion, anyway. Indeed! Barry Goldwater added a final touch to the assault on national service: "These so-called liberals, who want to fasten a domestic fascism on our young people, are simply following the line originally set by Robert McNamara who, months ago, suggested turning the draft system into a social service system in which every young American would be compelled to serve the state." (Los Angeles Times Syndicate, April 17, 1967) Is Goldwater a party to the New Left?

The February 1967 issue of *Moderator*, "the national magazine for leading college men," contains an article on conscription entitled, appropriately enough, "The Problem of Being Patriotic," written by *Moderator's* editor Philip R. Werdell and publisher Sherman B. Chickering. The thrust of the article is in a very non-radical, conservative direction: service to society is good, and the existence of military impressment is alienating an entire generation from all traditional forms of loyalty. The authors have familiarized themselves with the arguments in favor of a volunteer military, and present them cogently in arguing against a national lottery or compulsory service of any kind. The disturbing aspect about the author's thesis concerns the notion of *service to society* — they argue for a massive transformation of American motivational incentives to counteract and reverse the trend toward alienation among today's youth. Their program, although strictly within the framework of liberal principles, choice, voluntarism, etc., includes an appeal to colleges and universities, corporations, and government to give "those who have served" a special, higher status position or preferences in employment. A person of libertarian opinions cannot help but be cautious when approached by such allies, because the conscious erection of social pressures to induce a certain mode of behavior is no more acceptable than the imposition of legal sanctions — in fact social pressures can be more insidious because no libertarian would think of allowing *intolerance* to become a tort liability (as most modern-liberals would, for example.) There is much to be said in defense of social alienation, but clearly an Establishment publication such as *Moderator* would not think of this. It is difficult to conceive, for example, the revival of classical liberal opinions toward government without the breeding ground of alienated hostility toward "those in power." Classical liberalism was born in an era of alienation and hostility toward kings; what choked and almost killed it at the end of the century was an optimistic trust in The People and popular government. This trust in government — "we *are* the government" — is the foundation of social democratism and the welfare state ideal, and if the Right (or Left, maybe) is ever going to succeed in dismantling the deadening hand of the state it might well be better to encourage social alienation.

We had been hoping that voluntarism would be the irresistible wave of the future, but there are a number of people conspiring against that prospect. Last May, Secretary of Defense McNamara proposed that we adopt some form of compulsory national social service: "It seems to me that we could move toward remedying that inequity [not everyone is drafted] by asking every young person in the United States to give two years of service to his country—whether in one of the military services, in the Peace Corps, or in some voluntary developmental work at home or abroad." ("Address of Robert S. McNamara before American Society of Newspaper Editors, Montreal, Canada, May 18, 1966," Office of Assistant Secretary of Defense [Public Affairs], p. 14.)

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Last fall, President Johnson suggested the national social service idea: "We must move toward a standard that no man has truly lived who only served himself. . . . To move in this direction, I am asking every member of my Administration to explore new ways by which our young people can serve their fellow men." ("Remarks of the President at Montgomery County Fair, Dayton, Ohio, September 5, 1966," Office of the White House Press Secretary, pp. 4-5.)

In November, Secretary of Labor Wirtz called for a stampede to NSS: *"First,* that it be required that every boy and girl 'register in' with the local community when he or she reaches age eighteen. *Second,* that it be recognized as the community's obligation to provide every youth with the *opportunity* to receive at that point two years of further education, occupational training, a chance to participate in a service program, or a job. *Third,* that it be recognized as the youth's obligation, in return, to use this opportunity." After pausing to say that his scheme, ideally, would be voluntary, Wirtz added: "There are strong reasons, at the same time for beginning to think through the possibilities of a firmer, tougher course." ("Policy for Youth," *Vital Speeches,* January 1, 1967, pp. 163, 165.)

More recently still, Poverty Commissar Shriver recommended that compulsory national social service be opened to people at age sixteen: "I favor the registration and testing of all young Americans at age sixteen — females as well as males. The Peace Corps and VISTA and the Job Corps have all proven — once again — that women are just as courageous and patriotic and hard working as men. Thousands, perhaps millions, of young women would like a chance to help their country by performing recognized national service and such service should *not* be restricted to combatant military service. It's an archaic sentimentalism which excludes young women from selective service in the generic sense of those words." ("Statement by Sargent Shriver before the Senate Subcommittee on Employment, Manpower, and Poverty, March 23, 1967," p. 1.)

Collecting all of these luminous ideas together is Donald J. Eberly, Executive Director of the National Service Secretariat, a recently-formed lobby; Eberly asserts: "In the free market economy the law of supply and demand operates to fill the most essential jobs. But the needs that are met are primarily private or personal — the provision of electric can openers or automatic dishwashers. Some of the more fundamental needs in the area of human and natural resources — concerns very much in the public domain — are left to the agencies of the community, state and Federal governments." To satisfy basic, human, social, crying needs, Eberly would "establish universal volunteer service as a national goal, and rename the Selective Service System the National Service System and the Selective Service Boards the National Service Boards." Happily, "a program of national service provides youths not only with an opportunity to serve their country, extend their education and broaden their experience but also offers them increased individual freedom." *A Plan for National Service,* Washington, National Service Secretariat, November 1966, pp. 11, 29, 51.

Whether all of these proposals were sparked by the approaching expiration of the current draft law is not clear; but what is clear is the brand of Left-fascism that the proposals represent.

One book, excellent for its polemical approach, which has received little attention is Jean Carper, *Bitter Greetings; the Scandal of the Military Draft,* New York, Grossman Publishers, 1967. $5.00. The following quotation from the book's introductory chapter may serve to whet one's appetite: "Ironically, officials of the Selective Service in some of their press releases pat themselves on the back for never having suffered a scandal. . . . Nevertheless, it would be a joke of the blackest kind for the American people to join in Selective Service's

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celebration of itself. For the truth is that the draft enjoys no *small* scandal. Its very existence, its operation, its Orwellian schemes and powers for controlling the nation's youth constitute a scandal of monstrous proportions. Contending there is no scandal in the draft is like saying there are no blackheads on that portrait of corruption rotting away in Dorian Gray's attic. For the draft, like the degenerate Dorian, suffers no small blemishes; it is corrupt of spirit all the way through."

The December 1967 issue of *Ramparts* reprinted selections from an official Selective Service document entitled "Channeling" which illustrates the totalitarian philosophy of such a system and its functionaries. "The psychology of granting wide choice under pressure to take action is the American or indirect way of achieving what is done by direction in foreign countries where choice is not permitted. . . . From the individual's viewpoint, he is standing in a room which has been made uncomfortably warm. Several doors are open, but they all lead to various forms of recognized, patriotic service to the Nation. Some accept the alternatives gladly — some with reluctance. The consequence is approximately the same." All that is denied is the freedom to choose an "unapproved" course of action which more nearly fulfills the individual's notion of what his life should be.

Probably the two best books to have appeared on this subject are James C. Miller III, ed., *Why the Draft?* Baltimore, Penguin Books, 1968. $1.25. And: *The Draft?* prepared for the Peace Education Division of the American Friends Service Committee. (New York, Hill and Wang, 1968. $1.25.) Both books argue strongly against conscription and in favor of voluntarism, and both are impressive for their scholarship and the careful, scientific treatment of this highly emotional subject. The A.F.S.C. book, *The Draft?,* takes a completely pacifist point of view, arguing against all military service; and does an excellent job of destroying the case for conscription, as well as the more difficult job of building a case against all militarism. The Miller book, *Why the Draft?* argues positively for a volunteer army on the grounds of feasibility and optimality, and against conscription because it is simply not the best way of doing the job and has bad side effects as well. Both books were prepared by high-powered research teams, and this division of labor produced two superior books.

The source of most of the technical arguments against procuring military manpower through compulsion which are used by almost every other work on the subject is the economic research of men such as Prof. Walter Y. Oi, who presents his findings in the *American Economic Review,* LVII (May 1967), 39-62; and also in Sol Tax, ed., *The Draft* (Chicago: University of Chicago Press, 1967), pp. 221-51. Other technical articles of note are Stuart H. Altman and Alan E. Fechter, "The Supply of Military Personnel in the Absence of a Draft," *American Economic Review,* LVII (May 1967), 19-31; and W. Lee Hansen and Burton A. Weisbrod, "Economics of the Military Draft," *Quarterly Journal of Economics,* LXXXI (August 1967), 395-421. Additional articles in the Sol Tax book, which is a symposium covering all points of view and not merely the case for a volunteer army, include one by Kenneth Boulding, President of the American Economics Association, questioning the legitimacy of the national state; and several others which appear in revised form in this issue of N.I.R.

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